



Alan Thompson <alan.thompson@wyo.gov>

RE: Nice job!

1 message

John.Brueck@deq.idaho.gov <John.Brueck@deq.idaho.gov>

Tue, Jun 10, 2014 at 11:16 AM

To: alan.thompson@wyo.gov

You bet Alan!

My pleasure!

Happy trails!

John

From: Alan Thompson [<mailto:alan.thompson@wyo.gov>]

Sent: Tuesday, June 10, 2014 11:01 AM

To: John Brueck

Cc: Jerry Breed; Cindi Martinez

Subject: Re: Nice job!

Hi John,

Thanks so much again for your help, We could not have done what we have without your input, and I am really pleased that the IBR guidance helped you so much!

Good luck on the retirement plans, I will join you in about 12 years if all goes well.

Best regards,

Al

Alan Thompson
Wyoming DEQ/VRP

alan.thompson@wyo.gov
307-777-8759

On Tue, Jun 10, 2014 at 10:56 AM, <John.Brueck@deq.idaho.gov> wrote:

Nice job Alan! Going from 1300 pages to 52 is quite an accomplishment! I received your e-mail you discussed over the phone.

It looks like you did a very thorough job on the exceptions and the EPA less stringent rules that Wyoming does not want to adopt. We could probably use your new rules to overhaul Idaho's HW Rules as I did with the 6/30/11 EPA Region 6 IBR Guidance you gave me. I think I had 9 changes that I made to our rules from that updated EPA guidance including excepting the EPA Performance Track Program citations at 40 CFR Part 262.34(j),(k),(l) that EPA hasn't removed from their CFR citations even though they discontinued the program!

I am glad I was able to assist in this endeavor and thanks for the Region 6 2011 IBR Guidance!

I'm not sure if I will be here past the end of this year as retirement beckons if I can figure out how to pay for health care costs as I am still a few years away from Medicare and 65.

Good luck to you in your future Wyoming HW endeavors!

John

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of public business, is subject to the Wyoming Public Records
Act and may be disclosed to third parties.



Alan Thompson <alan.thompson@wyo.gov>

RE: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

1 message

Jessica Franken <jfranken@inda.org>

Thu, Jun 12, 2014 at 7:24 AM

To: Alan Thompson <alan.thompson@wyo.gov>

Thanks again, Al.

Have a great day,

Jessica

Jessica Franken

Director of Government Affairs

INDA, Association of the Nonwoven Fabrics Industry

3366 2nd Street South

Arlington, VA 22204

703-521-0545

jfranken@inda.org

www.inda.org

From: Alan Thompson [<mailto:alan.thompson@wyo.gov>]

Sent: Thursday, June 12, 2014 8:58 AM

To: Jessica Franken

Subject: Re: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

That is correct, Jessica.

Best regards,

Al Thompson

Alan Thompson
Wyoming DEQ/VRP
alan.thompson@wyo.gov
307-777-8759

On Wed, Jun 11, 2014 at 12:01 PM, Jessica Franken <jfranken@inda.org> wrote:

Mr. Thompson:

To make sure I am reading this information properly, it appears from these documents that DEQ is proposing to incorporate by reference the solvent contaminated wipes rule. Am I correct?

Best regards,

Jessica

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Director of Government Affairs
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From: Alan Thompson [mailto:alan.thompson@wyo.gov]
Sent: Wednesday, June 11, 2014 1:02 PM
To: Jessica Franken
Subject: Fwd: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

Hello Jessica,

Attached is the notification you requested.

Best regards,

Alan Thompson
Wyoming DEQ/VRP
alan.thompson@wyo.gov
307-777-8759

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From: **Alan Thompson** <alan.thompson@wyo.gov>

Date: Tue, Jun 10, 2014 at 7:03 AM

Subject: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

To:

The Wyoming Department of Environmental Quality/Hazardous Waste Permitting and Corrective Action Program (DEQ) is pleased to announce for public review proposed changes to the Hazardous Waste Rules and Regulations (HWRR) and a draft Statement of Principal Reasons (SOPR). Copies of each are attached to this e-mail. You are being contacted due to your previous interest in, and recommendations for, the revised HWRR. The DEQ wishes to thank you for your contributions to the rule-making process.

As explained during the rule-making outreach process conducted in spring and summer of 2013, the revised HWRR use Incorporation By Reference (IBR) of the Code of Federal Regulations, Title 40, "Protection of the Environment" (40 CFR). DEQ has shortened the existing 2008 HWRR from ca. 1,300 pages to a single chapter totaling 52 pages. The proposed changes to the HWRR clearly detail which parts of the 40 CFR have not been adopted by reference. Additionally, the proposed changes to the HWRR contain an appendix (Appendix A), which provides a detailed list of the more stringent provisions for the State relative to 40 CFR, as well as two additional tables which show the correlation between the previous rules and the 40 CFR/Federal statutes. The majority of the sections in the proposed HWRR are designed to correspond to equivalent sections of the 40 CFR. The attached SOPR explains in detail those obsolete provisions which have been omitted from the proposed HWRR, as well as the revised parts of the 40 CFR which are being adopted as part of the proposed rules.

The DEQ will be presenting the revised rules to the Wyoming Water and Waste Advisory Board (WWAB) on July 25, 2014 at 9:00 AM in Room UU415, University of Wyoming at Casper College, 125 College Drive, Casper, Wyoming. The public is invited to comment and attend. The meeting is scheduled to last until 5 PM. The IBR rules will be presented following rules changes presented by the Water Quality Division of DEQ.

The public notice period for review of the proposed HWRR begins today, June 10, 2014 and ends at the conclusion of the meeting on July 25, 2014. In addition to this e-mail, notice for the proposed changes to the HWRR was published today in the *Casper Star-Tribune*. Written comments concerning the HWRR received by July 10, 2014 will be included in the analysis of comments presentation. Comments concerning the proposed changes to the HWRR may be submitted to:

Alan Thompson

Department of Environmental Quality, SHWD

Herschler Building, 4-W

122 West 25th Street

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307-777-8759

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An electronic copy of the Public Notice and additional information is located at <http://deq.state.wy.us/shwd/gwg/pages/WWAB.asp>.

Thank you in advance for your feedback. The DEQ looks forward to receiving your comments.

Respectfully,

Alan Thompson

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Re: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

1 message

Alan Thompson <alan.thompson@wyo.gov>

Fri, Jun 13, 2014 at 11:00 AM

To: Jessica Franken <jfranken@inda.org>

Cc: Jerry Breed <jerry.breed@wyo.gov>, Cindi Martinez <cindi.martinez@wyo.gov>

Hello Jessica,

Thank you for your feedback. For future reference, we will be removing the exclusion under HWRR Section 261(a) for 261.4(b)(18) as this was a relic from our older rule development, and it applies to solvent wipes. We want to be consistent with the adoption of the solvent wipes rule.

Thank you very much for your feedback, it is very much appreciated.

Best regards,
Al Thompson

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On Fri, Jun 13, 2014 at 10:30 AM, Jessica Franken <jfranken@inda.org> wrote:

Mr. Thompson:

Attached please find comments from INDA expressing support for the proposal to incorporate by reference the entire solvent-contaminated wipes rule.

Thank you and have a good weekend,

Jessica

Jessica Franken

Director of Government Affairs

INDA, Association of the Nonwoven Fabrics Industry

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THE
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20535

TO : DIRECTOR, FBI
FROM : SAC, NEW YORK
SUBJECT: [Illegible]



Alan Thompson <alan.thompson@wyo.gov>

RE: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

2 messages

Jessica Franken <jfranken@inda.org>

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2 attachments



INDACommentsToWYDEQReRevisedHWRR.doc
134K



INDACommentsToWYDEQReRevisedHWRR.pdf
383K

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Draft To: Jessica Franken <jfranken@inda.org>

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[Quoted text hidden]

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June 13, 2014

VIA EMAIL

Alan Thompson
Department of Environmental Quality, SHWD
Herschler Building, 4-W
122 West 25th Street
Cheyenne, WY 82002
alan.thompson@wyo.gov

Dear Mr. Thompson:

I am writing on behalf of INDA, the Association of the Nonwoven Fabrics Industry to express support for proposed changes to the Wyoming Hazardous Waste Rules and Regulations (HWRR) that would incorporate by reference the U.S. Environmental Protection Agency (EPA) "Conditional Exclusions from Solid and Hazardous Waste for Solvent-Contaminated Wipes" [78 Fed. Reg. 46448 (July 31, 2013)], including provisions that provide a conditional exclusion from the definition of hazardous waste for non-laundered wipes.

As you are likely aware, this rulemaking was finalized by the EPA after more than 28 years of consideration, rigorous scientific analysis and input from a broad range of impacted stakeholders including INDA. Its purpose is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated non-laundered wipes and laundered shop towels in a way that maintains protection of human health and the environment, while reducing overall compliance costs for industry, many of which are small businesses.

As we will expand upon below, the conditional exclusion for non-laundered wipes would bring to successful culmination a nearly three decade effort to establish an appropriate regulatory regime for industrial wipes. It would also achieve myriad benefits including: increasing flexibility/simplicity for the vast number of domestic small businesses that use industrial wipes on a daily basis by creating a uniform, national regulatory regime; reducing unnecessary regulatory burdens and confusion while being protective of human health and the environment; enhancing compliance of the rules; and creating new economic and job opportunities for U.S. businesses.

Mailing Address: PO Box 1288, Cary, NC 27512-1288 Website: www.inda.org
Physical Address: Suite 115, 1100 Crescent Green, Cary, NC 27511 Phone: (919) 233-1210 Fax: (919) 233-1282

Background

INDA is the internationally recognized trade association of the nonwoven fabrics industry, a \$7 billion dollar business in the United States with another \$30 billion overseas. Nonwovens are ubiquitous and are utilized in scores of applications serving a broad range of sectors including: various consumer and industrial wipes, baby diapers, feminine care products, apparel, automotive/transportation, consumer products, electronics, filtration, furnishings, construction, hygiene, packaging and medical/healthcare.

INDA represents the entire value-chain of this dynamic industry. Its members include manufacturers of nonwoven roll goods, suppliers of raw materials and additives, machinery and equipment manufacturers, those who convert nonwovens into finished products, as well as academic institutions, consultants and other industry groups. Many INDA member companies are global entities including numerous *Fortune 100* companies such as Kimberly-Clark and Procter & Gamble, as well as a number of smaller and medium-sized U.S. manufacturers. You may learn more about INDA, its members and the industry by visiting: www.inda.org.

As mentioned above, INDA has an interest in seeing this rulemaking implemented in its entirety because our members make non-laundered wipes used in thousands of industrial facilities across the country for cleaning and degreasing equipment. Consequently, INDA has long had a keen interest in ensuring that environmental regulatory requirements for industrial wiping products are appropriate to the realities of their use and the risks they can pose, and thus has been very actively involved in the rulemaking since its inception.

Historically, under Subtitle C of the Resource Conservation and Recovery Act (RCRA), non-laundered wipers that contained even one drop of “listed” solvent were regarded as hazardous waste when discarded. Although these rules were intended to eliminate potential loopholes, they were so stringent that they had the unintended consequence of subjecting numerous types of generally non-hazardous materials, including non-laundered industrial wiping products, to overly burdensome and unnecessary waste management requirements. At the same time, wipes that are laundered (a.k.a. “shop towels”) have generally not been subject to federal hazardous waste regulations due to an EPA decision to defer determinations and interpretations regarding regulation of solvent-contaminated industrial wipes to states or EPA regions.¹ Numerous states have provided laundered shop towels a conditional exclusion from the definition of hazardous or solid waste, but these conditions vary considerably and are typically provided in informal, hard-to-find, and unenforceable “regulatory interpretations,” leaving a patchwork of different, confusing and often conflicting requirements throughout the country.

In 1985, manufacturers of non-laundered wipes formally petitioned EPA to conditionally exclude wipes from the RCRA definition of hazardous waste, arguing that these materials are over-regulated because the amount of solvent in the wipes is typically insignificant and because they

¹ Policy Memorandum from Mike Shapiro, Director, Office of Solid Waste, to EPA Waste Management Division Directors, February 14, 1994.

do not pose a meaningful threat to human health and the environment. In 1987, the Agency received a similar petition to exclude laundered wipes from the RCRA definition of solid waste.

Agreeing that these products are over-regulated and finding that managing disposable wipes as solid rather than hazardous waste under RCRA was protective of human health and the environment, EPA included a conditional exemption for them in its 1992 Hazardous Waste Identification Rule (HWIR) proposal, again in its 1993 redefinition of solid waste proposal, and still again in the Reengineering RCRA for Recycling report issued in 1994.

Unfortunately, none of these efforts resulted in a final rulemaking that resolved the issue of a conditional exclusion for wipes/rags. EPA spent the next nine years evaluating industrial wipes management options, conducting field visits, collecting data on wiper use and disposal practices, consulting and receiving vast amount of input from stakeholders, and vetting various options. In 2003, nearly 20 years after receipt of the initial petition, the EPA finally proposed a rule to establish a conditional exclusion from the RCRA definition of hazardous waste for non-laundered wipes, and also a conditional exclusion from the RCRA definition of solid waste for laundered shop towels.

Scores of stakeholders, including INDA, formally weighed-in on the 2003 proposal. The EPA ultimately decided to redo the risk analysis underlying the 2003 proposal to ensure that it adequately considered comments about possible shortcomings in its initial risk assessment and to account better for the impact on the type of landfill that would be receiving wipes/rags and laundry sludge. After spending the next several years working on the revised assessment, the EPA published in October 2009 a Notice of Data Availability ("NODA") describing the details of its revised risk analysis. The updated assessment included additional data and information, a new model to evaluate the behavior of solvents in a landfill, revised fate and transport modeling, and an improved approach from the 2003 risk screening analysis to compare the estimates of the solvent quantities disposed to the risk-based solvent loading levels. This includes a methodology to estimate allowable amounts of spent solvents that can be disposed of safely based on modeling scenarios defined in terms of the solvent, landfill type (lined or unlined), exposure route (ingestion, inhalation, dermal absorption), contact media (groundwater, ambient air), and receptor (child or adult). *See generally* 78 Fed. Reg. 46451-54. It was subjected to public comment and external peer review according to established EPA and Office of Management and Budget policies.² Based on this extremely rigorous analysis, the EPA ultimately concluded that both solvent-contaminated wipes and rags (except for those tainted with trichloroethylene) and laundry sludge can be disposed of in lined, municipal solid waste landfills while still being protective of public health and the environment.

²You can read a summary of the extensive risk analysis process in the preamble to final rule. Documents supporting the comprehensive risk analysis include "Landfill Loadings Calculations for Disposed Solvent-Contaminated Wipes and Laundry Sludge Managed in Municipal Landfills," October, 2008; "Risk-Based Mass Loading Limits for Solvents in Disposed Wipes and Laundry Sludges Managed in Municipal Landfills," October, 2009 and "F001-F005 Solvent-Contaminated Wipes and Laundry Sludge: Comparison of Landfill Loading Calculations and Risk-Based Mass Loading Limits," August, 2009, can be found in the docket associated with this rulemaking [RCRA Docket Nos. 2003-0004].

Finally, in July 2013, after nearly 30 years under development, the EPA published its final solvent contaminated wipes rule. As noted, the regulation creates a conditional exclusion from the definition of hazardous waste for non-laundered wipes and a conditional exclusion from the definition of solid waste for laundered shop towels. As previously noted, non-laundered wipes that contain trichloroethylene (TCE) are not eligible for exclusion.

Requirements for achieving such exclusions are nearly the same for both laundered and non-laundered wiping products. Under the final rule, in order to be eligible for exemption, generators of both wipes and shop towels must:

- Ensure that wipes and shop towels are accumulated, stored, and transported in non-leaking, closed containers capable of containing free liquids and labeled “Excluded Solvent-Contaminated Wipes.”
- Not accumulate wipes/shop towels for longer than 180 days.
- Ensure that when wipes are transported off-site, they contain “no free liquids” as determined by the Paint Filter Liquids Test (EPA Methods 9095B).
- Maintain recordkeeping. Generator facilities will have to keep documentation onsite that includes: 1) the name and address of the landfill/combustor or laundry/dry cleaner receiving wipes/towels when sent off site; 2) records showing that the 180-day accumulation time limit is being met; 3) a description of the process the generator is using to meet the “no free liquids” condition.

Assuming these standards are met, non-laundered wipes will be able to be disposed in either a lined, non-hazardous waste landfill or in a hazardous waste landfill; a municipal waste combustor regulated under New Source Performance standards (section 129) under the Clean Air Act or a hazardous waste combustor or hazardous waste boiler or industrial furnace. Meanwhile, laundered shop towels may be sent to either an industrial laundry or dry cleaner that is subject to effluent discharge requirements under the Clean Water Act and has a National Pollutant Discharge Elimination System (NPDES) permit or is subject to indirect discharge limitations imposed by a publicly-owned treatment works (POTW).

Now that the rule has been finalized, states are left to decide whether to implement the final product. INDA argues that doing so would achieve numerous laudable objectives as outlined below.

1) Increase Regulatory Flexibility/Simplicity for Domestic Small Businesses and Enhance Regulatory Compliance by Creating a Uniform, National Regulatory Regime

As the EPA itself noted, until the rule was finalized, its failure to clearly establish the regulatory status of industrial wipes under RCRA led to the development of diverse and confusing regulatory schemes for these materials across various states, a situation exacerbated by the fact that very few states had set forth their positions regarding laundered industrial wipes in transparent, promulgated regulations. *See generally* 68 Fed. Reg. 65591-92. This made it difficult for the hundreds of thousands of U.S. businesses that use these wipes in their day-to-day operations, the vast majority of which are small businesses, to comply with regulatory

Mailing Address: PO Box 1288, Cary, NC 27512-1288 Website: www.inda.org
Physical Address: Suite 115, 1100 Crescent Green, Cary, NC 27511 Phone: (919) 233-1210 Fax: (919) 233-1282

requirements relating to wipes. As the agency notes in the preamble to its 2003 proposed rule, "generators of solvent-contaminated wipes have asked EPA over the years to clarify our position on both disposable and reusable wipes." 68 Fed. Reg. 65591. As a representative from the printing industry noted during a March 9, 2004 public meeting on this matter, "Over the years the printing industry has continued to identify the ambiguity of the state policies as they apply to both disposable and reusable solvent contaminated wipes as a major concern...It has long been our intention to encourage the U.S. EPA to establish a federal regulation that levels the playing field and provides an element of consistency to this issue."³ Indeed, a review of the administrative record for this rulemaking reveals numerous submissions from the printing, electronics, automotive and other industries calling for the EPA to establish a clear, uniform national policy to bring consistency and enhance their ability to comply. These same groups cheered the EPA when it finally delivered a simple and straightforward rule that clearly lays out generator obligations to achieve their respective exclusions for both classes of products.

2) Prevent Unnecessary Over-Regulation, Increase User Options, and Create New Economic Opportunities

Over the years, impacted industries including INDIA's have submitted reams of scientific data demonstrating that wiping products are indeed over-regulated and can be handled, managed and disposed of safely without the onerous controls currently in place. EPA shared this position, as evidenced by numerous statements in the administrative record for the wipes rule in which it notes that these materials are excessively regulated, and the fact that EPA had released several proposals that attempted to conditionally exclude wiping products from onerous hazardous waste requirements.⁴

This well-established over-regulation of non-laundered wipes obviously creates costs that are unnecessary to achieve environmental objectives. One of these is limiting the wiper options available to those who use wipes. Generators in clean environments such as electronics, bio-pharmaceutical, medical device and other high tech manufacturing frequently prefer using non-laundered wipes and rags due to various attributes such as increased sterility, absorbency, texture and low lint particles. However, due to the additional costs of complying with the excessive hazardous waste management restrictions applicable to non-laundered wipes and rags, wipes users often feel compelled to use laundered shop towels in situations where non-laundered wipes are better suited to the task at hand. For example, in a February 26, 2010 submission to the EPA, the National Automotive Dealers Association, which represents some 17,000 automotive and truck dealers, the vast majority of which are small businesses, called upon the EPA to finalize revisions to the existing waste regulations, noting that "[d]ealerships and other small businesses want the ability to choose among wipe products," and contended that making these regulatory revisions would create a more even playing field between disposable and reusable wipes.

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Moreover, this over-regulation hasn't merely impacted users of wipes; it has also unnecessarily burdened manufacturers and distributors of these products. Conservative industry estimates show that eliminating this needless over-regulation of disposable wipes and replacing it with smart, uniform, and straightforward national management and disposal requirements described in the final rule will open up a new market for these products, in the range of \$718 million annually. That's \$718 million in jobs creation, and \$718 million in U.S. economic growth that is lost each year due to unwarranted over-regulation.⁵

3) Bring to a Successful Conclusion a Nearly Three Decade EPA Effort

As noted in detail above, the EPA invested years of staff work and a lot of money studying this issue, conducting public meetings, engaging and responding to stakeholder input, gathering and evaluating data, conducting internal and external government reviews, and creating two risk analyses. Based on this extensive work, EPA managed to develop a well-balanced rule that achieves numerous laudable objectives detailed above. In recognition of its many benefits, eight states have already implemented the rule in its entirety, another 29 including Wyoming indicate they plan to or are highly likely to accept it in its entirety, while another nine indicate they are still evaluating the rule.⁶

INDA would strongly urge you and your colleagues to implement this rulemaking in its entirety as quickly as possible. After literally decades of work and study, the time has come for all states to fully implement this long overdue and highly anticipated rulemaking as expeditiously as possible. As already noted, doing so will: 1) rectify unnecessary over-regulation in existing hazardous waste rules; 2) bring clarity and certainty to the covered community by creating a uniform, national regime; 3) and aid the vast number of small businesses across the nation who use these wipes on a daily basis in creating new economic and job opportunities, all while being protective of human health and the environment.

Should you have any questions or need further information, I can be reached directly at 703-521-0545 or via e-mail at jfranken@inda.org.

Sincerely,



Jessica Franken
Director of Government Affairs
INDA, Association of the Nonwoven Fabrics Industry

⁵ "INDA Impact" Report, 2014.

⁶ Based on direct contacts in Q1/Q2 2014 with state officials responsible for overseeing the rule's implementation.



Alan Thompson <alan.thompson@wyo.gov>

Re: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

1 message

Alan Thompson <alan.thompson@wyo.gov>

Mon, Jun 16, 2014 at 7:02 AM

To: Phil Bunten <pbunten@sinclairoil.com>

Cc: Jerry Breed <jerry.breed@wyo.gov>, Cindi Martinez <cindi.martinez@wyo.gov>

Hello Mr. Bunten,

I assume you are referring to the first paragraph of the SOPR, and yes you are correct, Idaho is in EPA Region 10. Thank you for catching the error. I will update the SOPR accordingly. Please let me know if you have any further concerns with the IBR draft and the SOPR, we appreciated the feedback!

Best regards,
Al Thompson

Alan Thompson
Wyoming DEQ/VRP
alan.thompson@wyo.gov
307-777-8759

On Mon, Jun 16, 2014 at 6:52 AM, Phil Bunten <pbunten@sinclairoil.com> wrote:

Alan in the first paragraph it is stated that Idaho is in Region VIII but unless things have changed since last week I believe it is in Region X.

Phil Bunten

Environmental Compliance Coordinator

Sinclair Oil Corporation

PHONE 801-526-3918

CELL 801-631-1140

FAX 801-524-2878

CONFIDENTIALITY NOTICE - This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain information that is confidential or legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that you must not read this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender by telephone or return e-mail and delete the original

transmission and its attachments without reading or saving in any manner. Thank you.

From: Alan Thompson [mailto:alan.thompson@wyo.gov]

Sent: Tuesday, June 10, 2014 7:03 AM

Subject: Public Notice Period for Release of Revised Wyoming Hazardous Waste Rules and Regulations Via Incorporation By Reference (IBR)

The Wyoming Department of Environmental Quality/Hazardous Waste Permitting and Corrective Action Program (DEQ) is pleased to announce for public review proposed changes to the Hazardous Waste Rules and Regulations (HWRR) and a draft Statement of Principal Reasons (SOPR). Copies of each are attached to this e-mail. You are being contacted due to your previous interest in, and recommendations for, the revised HWRR. The DEQ wishes to thank you for your contributions to the rule-making process.

As explained during the rule-making outreach process conducted in spring and summer of 2013, the revised HWRR use Incorporation By Reference (IBR) of the Code of Federal Regulations, Title 40, "Protection of the Environment" (40 CFR). DEQ has shortened the existing 2008 HWRR from ca. 1,300 pages to a single chapter totaling 52 pages. The proposed changes to the HWRR clearly detail which parts of the 40 CFR have not been adopted by reference. Additionally, the proposed changes to the HWRR contain an appendix (Appendix A), which provides a detailed list of the more stringent provisions for the State relative to 40 CFR, as well as two additional tables which show the correlation between the previous rules and the 40 CFR/Federal statutes. The majority of the sections in the proposed HWRR are designed to correspond to equivalent sections of the 40 CFR. The attached SOPR explains in detail those obsolete provisions which have been omitted from the proposed HWRR, as well as the revised parts of the 40 CFR which are being adopted as part of the proposed rules.

The DEQ will be presenting the revised rules to the Wyoming Water and Waste Advisory Board (WWAB) on July 25, 2014 at 9:00 AM in Room UU415, University of Wyoming at Casper College, 125 College Drive, Casper, Wyoming. The public is invited to comment and attend. The meeting is scheduled to last until 5 PM. The IBR rules will be presented following rules changes presented by the Water Quality Division of DEQ.

The public notice period for review of the proposed HWRR begins today, June 10, 2014 and ends at the conclusion of the meeting on July 25, 2014. In addition to this e-mail, notice for the proposed changes to the HWRR was published today in the *Casper Star-Tribune*. Written comments concerning the HWRR received by July 10, 2014 will be included in the analysis of comments presentation. Comments concerning the proposed changes to the HWRR may be submitted to:

Alan Thompson

Department of Environmental Quality, SHWD

Herschler Building, 4-W

122 West 25th Street

Cheyenne, WY 82002

307-777-8759

alan.thompson@wyo.gov

An electronic copy of the Public Notice and additional information is located at <http://deq.state.wy.us/shwd/gwg/pages/WWAB.asp>.

Thank you in advance for your feedback. The DEQ looks forward to receiving your comments.

Respectfully,

Alan Thompson

Rules Project Manager

DEQ/SHWD

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very important document, as it contains the President's views on the state of the Union and the progress of the war.

2. The second part of the document is a report from the Secretary of the War Department, dated January 10, 1862. It contains a detailed account of the military operations of the Army during the year 1861, and a statement of the resources of the War Department.

3. The third part of the document is a report from the Secretary of the Navy Department, dated January 10, 1862. It contains a detailed account of the operations of the Navy during the year 1861, and a statement of the resources of the Navy Department.

4. The fourth part of the document is a report from the Secretary of the Department of the Interior, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department.

5. The fifth part of the document is a report from the Secretary of the Department of the Treasury, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department.

6. The sixth part of the document is a report from the Secretary of the Department of the State, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department.

7. The seventh part of the document is a report from the Secretary of the Department of the War, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department.



Alan Thompson <alan.thompson@wyo.gov>

Re: Support for Proposed changes to the Wyoming Hazardous Waste Rules and Regulations (HWRR) Re EPA Solvent-Contaminated Wipes Rule

1 message

Alan Thompson <alan.thompson@wyo.gov>

Wed, Jun 18, 2014 at 7:01 AM

To: Jackie King <jackie@kingmgmt.org>

Cc: Jessica Franken <jessica@thefrankengroup.com>, Jerry Breed <jerry.breed@wyo.gov>, Cindi Martinez <cindi.martinez@wyo.gov>

Hello Ms. King,

Thank you very much for your feedback. I will make sure that it is included in our public record. Please feel free to contact me with any questions concerning our proposed hazardous waste rules.

Best regards,
Alan Thompson

Alan Thompson
Wyoming DEQ/VRP
alan.thompson@wyo.gov
307-777-8759

On Wed, Jun 18, 2014 at 6:48 AM, Jackie King <jackie@kingmgmt.org> wrote:

Mr. Thompson:

Attached please find comments from the Secondary Materials and Recycled Textiles Association expressing support for the proposal to incorporate by reference the entire EPA solvent-contaminated wipes rule.

Best Regards,

Jackie King

Executive Director

Secondary Materials and Recycled Textiles Assoc. (SMART)

3465 Box Hill Corporate Center Dr., Suite H, Abingdon, MD 21009

p. 443.640.1050 X105 / f. 443.640.1086

jackie@kingmgmt.org

www.smartasn.org

Upcoming Events:

SMART Regional Meeting, Wednesday, October 8, 2014 – Hotel ZaZa, Houston TX – 6-9 pm



* *Managed by King Management Group.*





Alan Thompson <alan.thompson@wyo.gov>

Support for Proposed changes to the Wyoming Hazardous Waste Rules and Regulations (HWRR) Re EPA Solvent-Contaminated Wipes Rule

1 message

Jackie King <jackie@kingmgmt.org>

Wed, Jun 18, 2014 at 6:48 AM

To: "alan.thompson@wyo.gov" <alan.thompson@wyo.gov>

Cc: Jessica Franken <jessica@thefrankengroup.com>

Mr. Thompson:

Attached please find comments from the Secondary Materials and Recycled Textiles Association expressing support for the proposal to incorporate by reference the entire EPA solvent-contaminated wipes rule.

Best Regards,

Jackie King

Executive Director

Secondary Materials and Recycled Textiles Assoc. (SMART)

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SMARTCommentstoWyomingReRevisedHWRR.pdf
104K



The Association of Wiping Materials, Used Clothing and Fiber Industries

3465 Box Hill Corporate Center Drive, Suite H, Abingdon, MD 21009

telephone 443.640.1050 fax 443.640.1086

email smartinfo@kingmngmt.org web www.SMARTasn.org

June 18, 2014

VIA EMAIL

Alan Thompson
Department of Environmental Quality, SHWD
Herschler Building, 4-W
122 West 25th Street
Cheyenne, WY 82002
alan.thompson@wyo.gov

Dear Mr. Thompson:

I am writing on behalf of the Secondary Materials and Recycled Textiles Association (SMART) to express support for proposed changes to the Wyoming Hazardous Waste Rules and Regulations (HWRR) that would incorporate by reference the U.S. Environmental Protection Agency (EPA) "Conditional Exclusions from Solid and Hazardous Waste for Solvent-Contaminated Wipes" [78 Fed. Reg. 46448 (July 31, 2013)], including provisions that provide a conditional exclusion from the definition of hazardous waste for non-laundered wipes.

As you are likely aware, this rulemaking was finalized by the EPA after more than 28 years of consideration, rigorous scientific analysis and input from a broad range of impacted stakeholders, including Secondary Materials and Recycled Textiles Association (SMART). Its purpose is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated non-laundered wipes and laundered shop towels in a way that maintains protection of human health and the environment, while reducing overall compliance costs for industry, many of which are small businesses.

As we will expand upon below, the conditional exclusion for non-laundered wipes and rags would bring to successful culmination a nearly three decade effort to establish an appropriate regulatory regime for industrial wipes. It would also achieve myriad benefits including: increasing flexibility/simplicity for the vast number of domestic small businesses that use industrial wipes on a daily basis by creating a uniform, national regulatory regime; reducing unnecessary regulatory burdens and confusion while being protective of human health and the environment; enhancing compliance by the rules; and creating new economic and job opportunities for U.S. businesses.

Background

Founded in 1932, SMART is a non-profit trade association that represents nearly 200 small and medium-sized companies involved in using, converting and recycling pre- and post-consumer textiles and other secondary materials.

The activities of this nearly \$1 billion industry, which is comprised of mostly small, family-owned operations, are very diverse. Some SMART members recover and process “pre-consumer” by-products from the textile and fiber industries to be used in new materials for automobiles, home furnishings, and a variety of other products. Other buy and sell “post-consumer” second hand textiles, purchasing excess textile donations collected from various charities and commercial sources (e.g. Salvation Army, Goodwill, hospitals, hotels, industrial laundries, etc.). Some of this recovered material becomes wiping and polishing cloths used in institutional and industrial settings some other is reprocessed into fibers for furniture stuffing, upholstery, insulation, building and a variety of other products. The items that can be reused as apparel are usually exported, typically to least developed and developing countries where demand for second hand clothing is especially high.

Through these business activities, for-profit textile recyclers create meaningful employment for some 15,000-20,000 people who drive their local economies and generate much-needed tax revenue across the United States. These companies also make vital contributions to state and national environmental goals through the recycling of nearly 4 billion pounds of used clothing and other textile waste each year that would have otherwise gone to a landfill. Yet despite the industry’s contributions, recent data shows that this figure is a mere 15 % of the total and Americans still throw away some 21 billion pounds of used textiles annually. These realities have prompted officials in New York City, San Francisco, Connecticut, Massachusetts, Rhode Island and elsewhere to pursue textile recycling one way to achieve their broader waste reduction goals.

As mentioned above, SMART has an interest in seeing this rulemaking implemented in its entirety because our members recover textiles that are turned into non-laundered wiping cloths/rags used in thousands of industrial facilities across the country for cleaning and degreasing equipment. Consequently, SMART has long had a keen interest in ensuring that environmental regulatory requirements for industrial wiping products are appropriate to the realities of their use and the risks they can pose, and thus has been very actively involved in the rulemaking since its inception.

Historically, under Subtitle C of the Resource Conservation and Recovery Act (RCRA), non-laundered wipers that contained even one drop of “listed” solvent were regarded as hazardous waste when discarded. Although these rules were intended to eliminate potential loopholes, they were so stringent that they had the unintended consequence of subjecting numerous types of generally non-hazardous materials, including non-laundered industrial wiping products, to overly burdensome and unnecessary waste management requirements. At the same time, wipes that are laundered (a.k.a. “shop towels”) have generally not been subject to federal hazardous waste regulations due to an EPA decision to defer determinations and interpretations regarding regulation of solvent-contaminated industrial wipes to states or EPA regions.¹ Numerous states have provided laundered

¹ Policy Memorandum from Mike Shapiro, Director, Office of Solid Waste, to EPA Waste Management Division Directors, February 14, 1994.

shop towels a conditional exclusion from the definition of hazardous or solid waste, but these conditions vary considerably and are typically provided in informal, hard-to-find, and unenforceable “regulatory interpretations,” leaving a patchwork of different, confusing and often conflicting requirements throughout the country.

In 1985, manufacturers of non-laundered wipes formally petitioned EPA to conditionally exclude wipes from the RCRA definition of hazardous waste, arguing that these materials are over-regulated because the amount of solvent in the wipes is typically insignificant and because they do not pose a meaningful threat to human health and the environment. In 1987, the Agency received a similar petition to exclude laundered wipes from the RCRA definition of solid waste.

Agreeing that these products are over-regulated and finding that managing disposable wipes as solid rather than hazardous waste under RCRA was protective of human health and the environment, EPA included a conditional exemption for them in its 1992 Hazardous Waste Identification Rule (HWIR) proposal, again in its 1993 redefinition of solid waste proposal, and still again in the Reengineering RCRA for Recycling report issued in 1994.

Unfortunately, none of these efforts resulted in a final rulemaking that resolved the issue of a conditional exclusion for wipes/rags. EPA spent the next nine years evaluating industrial wipes management options, conducting field visits, collecting data on wiper use and disposal practices, consulting and receiving vast amount of input from stakeholders, and vetting various options. In 2003, nearly 20 years after receipt of the initial petition, the EPA finally proposed a rule to establish a conditional exclusion from the RCRA definition of hazardous waste for non-laundered wipes, and also a conditional exclusion from the RCRA definition of solid waste for laundered shop towels. Scores of stakeholders, including SMART, formally weighed-in on the 2003 proposal. The EPA ultimately decided to redo the risk analysis underlying the 2003 proposal to ensure that it adequately considered comments about possible shortcomings in its initial risk assessment and to account better for the impact on the type of landfill that would be receiving wipes/rags and laundry sludge. After spending the next several years working on the revised assessment, the EPA published in October 2009 a Notice of Data Availability (“NODA”) describing the details of its revised risk analysis. The updated assessment included additional data and information, a new model to evaluate the behavior of solvents in a landfill, revised fate and transport modeling, and an improved approach from the 2003 risk screening analysis to compare the estimates of the solvent quantities disposed to the risk-based solvent loading levels. This includes a methodology to estimate allowable amounts of spent solvents that can be disposed of safely based on modeling scenarios defined in terms of the solvent, landfill type (lined or unlined), exposure route (ingestion, inhalation, dermal absorption), contact media (groundwater, ambient air), and receptor (child or adult). *See generally* 78 Fed. Reg. 46451-54. It was subjected to public comment and external peer review according to established EPA and Office of Management and Budget policies.² Based on this extremely rigorous analysis, the EPA ultimately concluded that both solvent-contaminated wipes and rags (except for

²You can read a summary of the extensive risk analysis process in the preamble to final rule. Documents supporting the comprehensive risk analysis include “Landfill Loadings Calculations for Disposed Solvent-Contaminated Wipes and Laundry Sludge Managed in Municipal Landfills,” October, 2008; “Risk-Based Mass Loading Limits for Solvents in Disposed Wipes and Laundry Sludges Managed in Municipal Landfills,” October, 2009 and “F001-F005 Solvent-Contaminated Wipes and Laundry Sludge: Comparison of Landfill Loading Calculations and Risk-Based Mass Loading Limits,” August, 2009, can be found in the docket associated with this rulemaking [RCRA Docket Nos. 2003-0004].

those tainted with trichloroethylene) and laundry sludge can be disposed of in lined, municipal solid waste landfills while still being protective of public health and the environment.

Finally, in July 2013, after nearly 30 years under development, the EPA published its final solvent contaminated wipes rule. As noted, the regulation creates a conditional exclusion from the definition of hazardous waste for non-laundered wipes/rags and another one conditional exclusion from the definition of solid waste for laundered shop towels. As previously noted, non-laundered wipes and rags that contain trichloroethylene (TCE) are not eligible for exclusion.

Requirements for achieving such exclusions are nearly the same for both laundered and non-laundered wiping products. Under the final rule, in order to be eligible for exemption, generators of both wipes and shop towels must:

- Ensure that wipes and shop towels are accumulated, stored, and transported in non-leaking, closed containers capable of containing free liquids and labeled “Excluded Solvent-Contaminated Wipes.”
- Not accumulate wipes/shop towels for longer than 180 days.
- Ensure that when wipes are transported off-site, they contain “no free liquids” as determined by the Paint Filter Liquids Test (EPA Methods 9095B).
- Maintain recordkeeping. Generator facilities will have to keep documentation onsite that includes: 1) the name and address of the landfill/incinerator or laundry/dry cleaner receiving wipes/towels when sent off site; 2) records showing that the 180-day accumulation time limit is being met; 3) a description of the process the generator is using to meet the “no free liquids” condition.

Assuming these standards are met, non-laundered wipes will be able to be disposed in either a lined, non-hazardous waste landfill or in a hazardous waste landfill; a municipal waste combustor regulated under New Source Performance standards (section 129) under the Clean Air Act or a hazardous waste combustor or hazardous waste boiler or industrial furnace. Meanwhile, laundered shop towels may be sent to either an industrial laundry or dry cleaner that is subject to effluent discharge requirements under the Clean Water Act and has a National Pollutant Discharge Elimination System (NPDES) permit or is subject to indirect discharge limitations imposed by a publicly-owned treatment works (POTW).

Now that the rule has been finalized, states are left to decide whether to implement the final product. SMART argues that doing so would achieve numerous laudable objectives as outlined below.

1) Increase Regulatory Flexibility/Simplicity for Domestic Small Businesses and Enhance Regulatory Compliance by Creating a Uniform, National Regulatory Regime

As the EPA itself noted, until the rule was finalized, its failure to clearly establish the regulatory status of industrial wipes under RCRA led to the development of diverse and confusing regulatory schemes for these materials across various states, a situation exacerbated by the fact that very few states had set forth their positions regarding laundered industrial wipes in transparent, promulgated regulations. *See generally* 68 Fed. Reg. 65591-92. This made it difficult for the hundreds of thousands of U.S. businesses that use these wipes in their day-to-day operations, the vast majority

of which are small businesses, to comply with regulatory requirements relating to wipes. As the agency notes in the preamble to its 2003 proposed rule, “generators of solvent-contaminated wipes have asked EPA over the years to clarify our position on both disposable and reusable wipes.” 68 Fed. Reg. 65591. As a representative from the printing industry noted during a March 9, 2004 public meeting on this matter, “Over the years the printing industry has continued to identify the ambiguity of the state policies as they apply to both disposable and reusable solvent contaminated wipes as a major concern...It has long been our intention to encourage the U.S. EPA to establish a federal regulation that levels the playing field and provides an element of consistency to this issue.”³ Indeed, a review of the administrative record for this rulemaking reveals numerous submissions from the printing, electronics, automotive and other industries calling for the EPA to establish a clear, uniform national policy to bring consistency and enhance their ability to comply. These same groups cheered the EPA when it finally delivered a simple and straightforward rule that clearly lays out generator obligations to achieve their respective exclusions for both classes of products.

2) Prevent Unnecessary Over-Regulation, Increase User Options, and Create New Economic Opportunities

Over the years, impacted industries including mine have submitted reams of scientific data demonstrating that wiping products are indeed over-regulated and can be handled, managed and disposed of safely without the onerous controls currently in place. EPA shared this position, as evidenced by numerous statements in the administrative record for the wipes rule in which it notes that these materials are excessively regulated, and the fact that EPA had released several proposals that attempted to conditionally exclude wiping products from onerous hazardous waste requirements.⁴

This well-established over-regulation of non-laundered wipes and rags obviously creates costs that are unnecessary to achieve environmental objectives. One of these is limiting the wiper options available to those who use wipes. Generators in clean environments such as electronics, bio-pharmaceutical, medical device and other high tech manufacturing frequently prefer using non-laundered wipes and rags due to various attributes such as increased sterility, absorbency, texture and low lint particles. However, due to the additional costs of complying with the excessive hazardous waste management restrictions applicable to non-laundered wipes and rags, wipes users often feel compelled to use laundered shop towels in situations where non-laundered wipes or rags are better suited to the task at hand. For example, in a February 26, 2010 submission to the EPA, the National Automotive Dealers Association, which represents some 17,000 automotive and truck dealers, the vast majority of which are small businesses, called upon the EPA to finalize revisions to the existing waste regulations, noting that “[d]ealerships and other small businesses want the ability to choose among wipe products,” and contended that making these regulatory revisions would create a more even playing field between disposable and reusable wipes.

Moreover, this over-regulation hasn’t merely impacted users of wipes; it has also unnecessarily burdened manufacturers and distributors of these products. Conservative industry estimates show that eliminating this needless over-regulation of disposable wipes and replacing it with smart, uniform, and straightforward national management and disposal requirements described in the final

³ March 9, 2004 Statement of Marci Kinter, Specialty Graphic Imaging Association International.

⁴ For example, a Technical Background document supporting the 2003 proposed rule states that “[c]urrent federal rules appear to over-regulate these materials, such as when very small amounts of hazardous solvent are applied to industrial wipes.”

rule will open up a new market for these products, in the range of \$718 million annually. That's \$718 million in jobs creation, and \$718 million in U.S. economic growth that is lost each year due to unwarranted over-regulation.⁵

3) Bring to a Successful Conclusion a Nearly Three Decade EPA Effort

As noted in detail above, the EPA invested years of staff work and a lot of money studying this issue, conducting public meetings, engaging and responding to stakeholder input, gathering and evaluating data, conducting internal and external government reviews, and creating two risk analyses. Based on this extensive work, EPA managed to develop a well-balanced rule that achieves numerous laudable objectives detailed above. In recognition of its many benefits, eight states have already implemented the rule in its entirety, another 29, including Wyoming indicate they plan to or are highly likely to accept it in its entirety, while another nine indicate they are still evaluating the rule.⁶

SMART would strongly urge you and your colleagues to implement this rulemaking in its entirety as quickly as possible. After literally decades of work and study, the time has come for all states to fully implement this long overdue and highly anticipated rulemaking as expeditiously as possible. As already noted, doing so will: 1) rectify unnecessary over-regulation in existing hazardous waste rules; 2) bring clarity and certainty to the covered community by creating a uniform, national regime; 3) and aid the vast number of small businesses across the nation who use these wipes on a daily basis in creating new economic and job opportunities, all while being protective of human health and the environment.

Should you have any questions or need further information, I can be reached directly at 443-640-1050, ext. 105 or via e-mail at Jackie@kingmgt.org or you may contact SMART's government affairs consultant Jessica Franken at 703-521-0545 or via email at jessica@thefrankengroup.com.

Sincerely,



Jackie King
Executive Director
Secondary Materials and Recycled Textiles Association

⁵ "INDA Impact" Report, 2014.

⁶ Based on direct contacts in Q1 2014 with state officials responsible for overseeing the rule's implementation.