

**NEWMOA Hazardous Waste Conference Call  
November 22, 2016**

**Topic: EPA's Solvent Wiper Rule – Which States Have Picked It Up or Have Been Implementing Similar Rules; Issues & Challenges With the Rule; Enforcement**

**Disclaimer:** NEWMOA organizes regular conference calls or webinars so its members, EPA Headquarters, and EPA Regions 1 and 2 can share information and discuss issues associated with the implementation of the Resource Conservation and Recovery Act (RCRA), compliance assistance, enforcement, and other topics. Members of the group prepare draft notes of the calls for use by those members that were unable to participate and for future reference by the participants. These notes are intended to capture general information and comments provided by the participants and are not a transcript of the call. NEWMOA provides the participants on the calls with an opportunity to review drafts of the notes prior to posting them on the members' only area of the hazardous waste page on the NEWMOA website. NEWMOA staff makes all recommended corrections to the notes prior to posting.

Any comments expressed by participants should not be considered legal opinions or official EPA or State positions on a particular rule, site-specific matter, or any other matters. Participants' comments do not constitute official agency decisions and are not binding on EPA or the States. For exact interpretations of a State's or EPA's RCRA regulations, rules, and policies, NEWMOA recommends that readers of these notes contact the appropriate hazardous waste program in the State's environmental agency or EPA Headquarters or EPA Regional RCRA staff.

**Participants:** CT DEEP (5 people); ME DEP (2 people); Mass DEP (7 people); NH DES (7 people); NJ DEP (2 people); NYS DEC (10 people); EPA HQ (1 person); EPA Region 1 (2 people); EPA Region 2 (1 person); NEWMOA (1 person)

Call leader: Connecticut DEEP  
Note-taker: Massachusetts DEP

The call involved a roundtable where each state answered the questions outlined below.

**1.) Has your state picked up EPA's Solvent Wiper Rule?**

CT – No  
MA – No  
ME – No  
NH – Yes  
NJ – Yes  
NY – No

**2.) If so, how long have you had it? If not, why not and do you still have a rag policy in place?**

CT – Planning to adopt rule in response to strong public interest, but timeline has been delayed due in part to limited resources; current policy still in place; looking at changes to the Federal language because of concerns about the management of disposal wipers; still have a few industrial laundries but they do not launder solvent wipers; most go to Massachusetts

MA – MA has drafted the federal rule verbatim but doesn't know when it will go out to public comment; longstanding wiper policy is still in effect

ME – Draft version of rule now being shared with EPA; policy/guidance still in place

NH – Adopted in 2014 after being pressured by several business associations to adopt the federal rule; policy still in effect but will be modified to reflect adoption of rule

NJ – Yes adopted federal rule; policy for industrial launderers also still in place

NY – In early stages of drafting federal rule; urged by disposable wipes manufacturers to adopt federal rule; old policy still in place but NY is working on possible modifications

**3.) Did you (or would you) you make any changes to the federal language?**

CT – Looking at making changes

MA – MA is not proposing to make changes to the federal rule

ME – Minor changes to federal rule being proposed

NH – Yes, landfilling not allowed for disposable wipes, and wipes can't be used for spills greater than 12 ounces

NJ – No, adopted by reference

NY – Too early to say

**4.) In particular, do you (or would you) allow disposal of wipers in landfills?**

CT – May propose a prohibition on landfilling

MA – Yes

ME – Yes

NH – No

NJ – Yes

NY – Too early to say, but early draft would prohibit landfilling; concern about how rag transfer facilities would be regulated

**5.) Do you have rag laundries in your state? If so, how many?**

CT – Most have gone out of business or moved out of state; still have a few industrial laundries but they do not launder solvent wipers; most go to Massachusetts

MA – Yes, several

ME – Yes, at least two; UniFirst in Portland and Bangor

NH – Yes, at least three

NJ – Yes, several

NY – Yes

**6.) If so, do you feel the rule is adequately protective of the management of launderable wipers at these facilities?**

CT – Not applicable

MA – Yes, in part because EPA has done some stack testing at industrial laundries and has determined that air permits are required at some MA facilities; at the same time, some concerns related to facilities that may not have an industrial pre-treatment approval from EPA, and those that may have discharges to groundwater

ME – No determination

NH – Yes; a lot of the conditions from NH’s solvent wipes fact sheet pertaining to laundry facilities are in the federal rule

NJ – Yes

NY – Current draft may tighten federal requirements; generator may have to notify NY where rags are going; prohibit use of bags as a container; and add some laundry facility accumulation requirements

**7.) Have you taken enforcement for violation of the rule?**

CT – No

MA – Not on federal rule; some enforcement related to policy in instances where generator failed to make a proper hazardous waste determination for contaminated rags or claimed they generated exempt waste, non-saturated wipes that were in fact saturated

ME – No

NH – Yes, for not making a proper hazardous waste determination for a drum of rags

NJ – No enforcement pending

NY – None mentioned on call

**8.) In general, what is your experience in implementing the rule? Have you encountered any unresolved or difficult issues with the rule? In particular: do you believe the F001 through F005 solvent listings should follow through to: (1) free liquids removed from rags (e.g., due to compaction or settling); or (2) wastewater treatment sludge generated by rag launderers?**

CT – Currently looking at the free liquids and sludge issues

MA – Yes, solvent listing carries with free liquids removed from rags; but listing does not carry with wastewater treatment sludges at rag launderers

ME – Will evaluate the free liquids and sludge issues

NH – Haven’t looked at whether solvent listing carries with free liquids; listing does not carry with wastewater treatment sludges at rag launderers

NJ – Yes, solvent listing carries with free liquids removed from rags; but listing does not carry with wastewater treatment sludges at rag launderers

NY – Early draft: free liquids would be considered a hazardous waste; hasn’t had discussion yet on laundry sludges

**Comment from Mary Beth Sheridan (EPA HQs) during call:** free liquids removed from rags are considered a hazardous waste. Sludge is a different question; would be considered a hazardous waste only if it exhibits a hazardous waste characteristic. Listing does not carry through. See p. 46458 in *Federal Register* notice for final rule (“Any residuals must be managed

according to hazardous waste requirements...”). She is fairly certain the listing does not carry-over to sludge, but will double check and get back to NEWMOA on this.

**How do you interpret the language in the federal rule that requires rag laundries to be subject to regulation under the Clean Water Act? Does your state interpret this to mean that they merely have a discharge that is subject to the Act? Or that they have the required CWA permit? Or perhaps that they have the permit and are in compliance with it?**

CT – Currently looking at this issue

MA – Haven’t identified this as an issue yet

ME – Waiting for clarification on this issue from EPA

NH – Waiting for clarification on this issue from EPA

NJ – Haven’t identified this as an issue yet

NY – Waiting for clarification on this issue from EPA

**9) Additional Issue Raised by NH: Inspector asked about the regulatory status of alcohol wipes in a closed container that had become completely dry after container had been opened and closed multiple times. Generator said they were exempt.**

Mary Beth Sheridan, EPA HQs said the wipes may be exempt pursuant to 261.3(g)(1): [hazardous waste](#) that is listed in subpart D of this part solely because it exhibits one or more characteristics of ignitability as defined under § 261.21, corrosivity as defined under § 261.22, or reactivity as defined under § 261.23 is not a [hazardous waste](#), if the waste no longer exhibits any characteristic of [hazardous waste](#) identified in subpart C of this part.

Follow-up email from Mary Beth Sheridan, EPA HQs to Terri Goldberg, NEWMOA dated Thursday, 12/15/2016 9:13 AM

Hi Terri,

- 1) Here is what we [EPA HQs] have said about **the sludge from a laundry** where solvent-contaminated wipes are cleaned:

We did not specifically discuss the derived-from rule in the preamble to the solvent-contaminated wipes rule but we clearly stated that any residuals from cleaning solvent-contaminated wipes (e.g., sludge) that exhibit a HW characteristic must be managed as HW (78 FR 46458). We did address the derived-from rule in the Response to Comments to the final rule which is found in the docket. Here’s the relevant comment summary and response:

COMMENTS: One commenter suggested that the proposed rule preamble does not appear to specifically address the issue of whether or not the wastewater treatment sludges generated by facilities that launder wipes contaminated with F001-F005 solvents would be classified as hazardous wastes under the “derived from” rule. However, the commenter pointed out EPA does state in section V.B.13 of the preamble that the derived-from rule does not apply to the ash derived from the burning of such wipes. The commenter added it would seem that a

straightforward assessment of the proposed rule would lead one to draw the same conclusion for laundry sludge, since it was technically not derived from a hazardous waste (but rather from an excluded waste). The commenter said EPA should clarify this issue. The commenter further stated the “derived-from” rule should be made to apply to such sludges, to ensure that they are not inappropriately disposed of without first being properly treated to meet LDR standards. The commenter believes combustor residues are not as much of a concern in this regard, since the vast majority of the organic content of such sludges would have been destroyed during combustion. However, the commenter argued that laundry sludges typically have had very little treatment other than oil/water separation, pH adjustment, flocculation, or other basic wastewater treatment methods that serve only to separate the sludges from the dischargeable wastewaters, and do not actually destroy or eliminate hazardous constituents. In lieu of strict application of the LDRs to laundry sludge, the commenter wants EPA to consider a special set of standards for such sludges (e.g., an alternative LDR treatment standard such as those already codified in 40 CFR 268.46 and 268.49, or a specific set of standards written directly into the exclusion itself), to ensure that such sludges containing large amounts of solvents are not disposed of in solid waste landfills. [271]

**RESPONSE: Solvent-contaminated reusable wipes managed under the final rule exclusion are not solid and hazardous wastes. Therefore, the derived-from rule does not apply to residuals, such as sludge, resulting from the laundering process. This same principle applies to disposable wipes, which are not hazardous wastes when managed under the final rule. Any residuals generated from laundering, dry cleaning or combustion of the solvent contaminated wipes are newly generated wastes subject to waste identification requirements of 40 CFR 261 and 262 and any applicable hazardous waste requirements.**

EPA acknowledges comments regarding treatment of laundry sludge and concerns that treatment methods do not destroy or eliminate hazardous constituents. Since the 2003 proposal was published, EPA has conducted a more robust risk analysis that was peer reviewed and published for public comment in 2009. The risk analysis evaluated levels of solvent contained in laundry sludge and found no significant risk to human health and the environment when the sludge was disposed in a composite-lined landfill. Additionally, the 2012 final risk analysis includes updated information for various input parameters for reusable wipes that were gathered from surveys and submitted in comments by a trade association. Using the updated data lowered the solvent landfill loadings calculated for the sludges generated by laundries. (See the revised document, “Landfill Loadings Calculations for Solvent Contaminated Wipes, July 2011” in the docket.) Based on the results of the 2012 final risk analysis, EPA believes there is no need to establish a special set of standards (such as an LDR treatment standard) for laundry sludge under the final rule. However, EPA notes that any residuals or sludge generated from the industrial laundry or dry-cleaning process are newly generated wastes and therefore subject to waste identification requirements of 40 CFR 261 and 262 and all applicable RCRA hazardous waste requirements, including the LDR standards, if applicable.

EPA disagrees that the “derived-from” rule should be made to apply to laundry sludge. Under the final rule, reusable wipes are not solid and hazardous wastes when managed in compliance with the exclusion. Because the wipes are not hazardous wastes, the “derived-from” rule does not apply.

- 2) Regarding the question about what it means for the “**discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act,**” I asked a contact from the Office of Water who works on pretreatment and this is the background she gave me. I think it is going to be up to the individual state/Region’s CWA program regarding what they have to do but I am still following up to see if we can be more definitive.

EPA did not adopt categorical pretreatment standards for industrial laundries. The following website includes the FR for the withdrawal of the rule. <https://www.epa.gov/eg/industrial-laundries-wastewater-discharges>. The summary section of the notice states [64 FR 45072], “EPA’s Office of Solid Waste (OSW) plans to address the amount of certain waste solvents being sent to laundries in a future rulemaking (the first quarter of the year 2000) with an aim toward decreasing the amount of solvent based organics on towels.” Section III of the notice more fully explains the “Decision Not to Regulate Laundries”, beginning on page 64 FR 45076. This section [on 64 FR 45077] states the following: “EPA further believes that the most effective way to address organic wastes from certain solvents in the discharges to POTWs is reduce their use or toxicity in the customer facilities in the first place or to remove them before washing, either at the customer’s facility or at the laundry. EPA’s Office of Solid Waste (OSW) is planning to conduct rulemaking to address certain organic solvents found mainly in shop and/or printer towels before they are washed. EPA expects to propose this rulemaking in the **Federal Register** in the first quarter of the year 2000.”

Section VIII, Environmental Benefits section on page 64 FR 45084, states the following: “EPA also notes that efforts that would prevent pollution at the source, such as the voluntary program or the efforts of OSW could achieve these same benefits.”

Regarding the question, “does the laundry have to do anything regarding pretreatment with the POTW?” the short answer is YES.

Categorical pretreatment standards is one of three standards in the pretreatment program to which a nondomestic discharger must comply.

In the National Pretreatment regulations, we also have:

- General and Specific Prohibitions, 40 CFR 403.5(b);
- Local Limits, 40 CFR 403.5(c).

General and Specific Prohibitions are national in applicability, largely designed on infrastructure protection [flammability, corrosivity, clogging, etc.]. Local Limits are established on a site specific basis, taking into account the receiving POTW, and designed to protect the receiving POTW [unique infrastructure as well as any NPDES permit, CAA permit, Solid waste permits, biosolids/sludge management, etc.] These are also federally enforceable.

In addition, there is also a classification called “Significant Industrial User”. Definition at 40 CFR 403.3(v). SIUs would be subject to permitting, inspection and sampling by approved POTW pretreatment programs. At least some of the industrial laundries are regulated as SIUs.

- 3) Finally, regarding the last issue on the call, I don't remember saying that. I thought I said I had not received that question and would have to take it to the EPA staff who deal with the characteristics.

Let me know if there are follow-up questions.

Mary Beth Sheridan  
U.S. EPA  
Office of Resource Conservation and Recovery  
Materials Recovery and Waste Management Division  
Recycling and Generator Branch  
(703) 308-4941