



Massachusetts
Department
of
ENVIRONMENTAL
PROTECTION

WASTE MANAGEMENT GUIDANCE FOR INDUSTRIAL WIPERS AND SORPTIVE MINERALS CONTAMINATED WITH WASTE OIL

Policy BWP 92-02, signed by Steven A. DeGabriele, Acting Director, Division of Hazardous Waste, May 20, 1992. Reference to Policy #WSC-400-89 was changed on April, 2001 to Policy #WSC 94-400 which supersedes the previous Policy.

Summary

The Department of Environmental Protection (DEP) provides the following guidance on the applicability of the mixture rule, MGL Chapter 21C, 310 CMR 30.140 (1) (c), to sorptive minerals and industrial wipers that do not contain free-flowing waste oil¹ and are therefore non-saturated. "Sorptive minerals" refers to absorbent clays or diatomaceous earth materials used in commercial and industrial settings, such as auto repair and machine shops. "Industrial wipers" refers to shop towels, rags and disposable wipers used in similar situations.

It is DEP's position that oily, non-saturated, industrial wipers and sorptive minerals do not typically pose a significant threat to human health when managed properly and that this policy provides a sufficient degree of environmental protection. DEP's policy is consistent with EPA's recent proposed rule to regulate waste oil, which included a conditional exemption to the mixture rule for industrial wipers and sorptive minerals.

Conditional Exemptions to the Mixture Rule

The Department interprets the mixture rule as inapplicable to sorptive minerals and industrial wipers that are contaminated with only small amounts of waste oil, provided that:

- They do not contain free-flowing waste oil, as defined by "one drop" in this guidance document, and
- They are used ONLY for spills or leaks when collection of waste oil as liquid is not feasible or practical.

This interpretation does not allow generators to dilute hazardous waste with solid waste so the mixture can be deemed non-hazardous. Intentional dilution of waste oil that could otherwise have been collected as a liquid is a violation of MGL Chapter 21C and 310 CMR 30.000. To the greatest extent possible, waste oils shall be collected in their liquid state for subsequent reuse, recycling, treatment or disposal in accordance with MGL Chapter 21C and 310 CMR 30.000, and any other applicable environmental protection requirements.

¹ "Waste Oil" as defined in 310 CMR 30.131. Additionally, "waste oil" refers to both "used waste oil" and "unused waste oil", as defined in 310 CMR 30.010.

Further, this interpretation covers only waste oil-contaminated sorptive minerals and industrial wipers, and does not apply to other hazardous wastes, such as listed solvents. For virgin (“unused”) oil-contaminated absorbent materials used at sites subject to Chapter 21E (releases to soil or ground or surface water), generators should refer to Section 4.0 of DEP Policy #WSC-94-400, “Interim Remediation Waste Management Policy for Petroleum Contaminated Soils.”

The “One Drop” Rule/Testing Procedures

DEP will use the “one drop” approach in EPA’s proposed rule on waste oil (Federal Register, September 23, 1991, vol. 56, p. 48025) as the means for determining whether sorptive minerals and industrial wipers contaminated with waste oil are saturated and therefore hazardous. As long as one drop of oil can flow from a mixture when subjected to its respective test, the mixture is saturated and, therefore, hazardous. The one drop approach employs a simple and inexpensive testing procedure.

The Paint Filter Liquids Test (310 CMR 30.156) shall be the method for determining whether oil/sorptive mineral mixtures pass the one drop test. For industrial wipers, the one drop determination shall be made by “wringing” the rags out by hand or by some other mechanical compaction method. If it is apparent that the industrial wipers or sorptive minerals are non-saturated, testing may not be necessary, though generators remain responsible for proving that their waste can pass the one drop test.

Preferred Material Management Practices

Sorptive materials that fail the one drop test:

The standard rules of hazardous waste management shall pertain to 1) industrial wipers that contain free-flowing waste oil; 2) used, sorptive minerals containing free-flowing waste oil; and 3) all free-flowing waste oil removed from sorptive minerals and industrial wipers.

Proper management of these materials requires compliance with applicable provisions of 310 CMR 30.000, including segregating each type of waste; keeping containers closed, except to add or remove waste; and labeling each container with “Waste Oil” and “Toxic” and the date accumulation began in that container. Waste oil-saturated materials must be transported and disposed in accordance with 310 CMR 30.000.

Materials that pass the one drop test:

Waste oil/sorptive mineral mixtures and industrial wipers that pass the one drop test, and which are used only when it is not feasible or practical to collect the waste oil as a liquid, are not hazardous waste, and therefore have several waste management options as a solid waste. DEP recommends that generators follow the Bureau of Waste Prevention’s hierarchy of solid waste management, which is to first reduce; second, to reuse/recycle; third, to incinerate in a waste-to-energy facility; and last, to landfill.

As an example, the order of DEP’s recommendations is

first, conservative use of absorbent materials,

second, recycling by laundering rags or substituting reusable drip mats for sorptive minerals, or reuse of sorptive minerals at an asphalt batching facility;

third, energy recovery at an incinerator; and finally, disposal at a lined landfill with leachate control.

EPA's Position and Supporting Data

DEP's interpretation is consistent with EPA's September 23, 1991 proposed rule to regulate waste oil as hazardous waste, which includes a discussion on the "Applicability of the [Federal] Mixture Rule to Specific Solid Wastes" and conditional exemptions for industrial wipers and sorptive minerals.

EPA's position is based in part on comments it received in 1986 on a proposal to amend the mixture rule to exclude sorptive minerals. Analytical data provided by the Sorptive Minerals Institute (SMI) showed that waste oil/sorptive mineral mixtures did not release hazardous constituents under pressure and that significant quantities of hazardous constituents did not leach out of sorptive minerals. Further SMI testing using the TCLP showed that the constituents of concern did not leach when exposed to prolonged TCLP extraction. EPA concluded, based on this data, that these mixtures were unlikely to pose a hazard when disposed, and that an exemption from the mixture rule should be considered.

EPA's view is also based on comments it received on its 1985 proposal to regulate waste oil as a hazardous waste and to allow a conditional exemption to the mixture rule for industrial wipers. EPA stated in its proposed waste oil rule last September that a wiper not containing free-flowing waste oil would be considered non-hazardous waste since it would contain "insignificant quantities" of waste oil.

Further, the EPA is currently reviewing a regulatory petition requesting a conditional exemption from hazardous waste status, under the mixture rule, for wipers contaminated with listed solvents. While a determination is pending on this interpretation, the EPA has directed its regions and states to use a case-by-case approach in formulating policy on this subject.

DEP will continue to evaluate the need for rulemaking and regulatory guidance in this area. Specifically, DEP's interpretation of 310 CMR 30.140(1) (c) may be subject to revision as the EPA is currently reevaluating its mixture rule and considering other ways to regulate waste mixtures.

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