



February 10, 2009

Lisa Jackson
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC

Dear Administrator Jackson:

I am writing on behalf of the Secondary Materials and Recycled Textiles Association (SMART) regarding a regulatory development project that has been underway within your agency for more than two decades. Specifically, SMART members are hopeful that your administration will finally ensure that the "Proposed Solvent-Soiled Industrial Wipes Rule" (EPA Docket ID No. RCRA-2003-0004) is finalized and implemented.

Background

SMART is a 76-year-old, not-for-profit organization that represents the interests of more than 200 small businesses. SMART members are primarily engaged in activities that find pre- and post-consumer uses for textile material that would otherwise be disposed of. A large percentage of the SMART membership, for instance, offers wiping products made from post-consumer textiles such as old clothing while other SMART members offer nonwoven wiping products produced from trim, scrap and "seconds" that result in the production of nonwoven roll goods.

For more than two decades now, SMART has been involved in an EPA rulemaking process that seeks to bring equality to the regulatory treatment of laundered and non-laundered wiping products used in industrial settings while also providing regulatory clarity to business owners who rely on industrial wiping products for their day-to-day operations.

As you know, under provisions contained in the Resource Conservation and Recovery Act (RCRA), spent wiping products that contain even a single drop of listed or categorical waste must be handled and disposed of as hazardous material if they are non-laundered. Laundered wiping products, however, face no such restrictions even when they are soiled with the same amount of the same solvent. Indeed, when a business uses a laundered shop towel, any of the material that is deemed hazardous under RCRA is often discharged to public sources of drinking water in laundry effluent. Yet if the exact same amount of the exact same material is placed on a non-laundered wiper, the spent

wiper cannot be disposed of in a municipal solid waste landfill or a municipal solid waste incinerator.

This dichotomy makes no sense to SMART members, and is well recognized in the business community as an unnecessary and unwarranted marketing advantage to the industrial laundry industry.

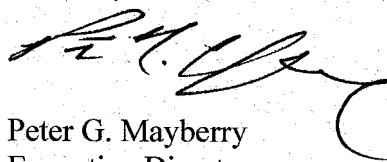
In 2003, EPA issued a proposed rule that sought to eliminate this dichotomy and add "common sense" to the regulations that cover the handling and disposal of laundered and non-laundered wipes. On April 9, 2004, SMART joined forces with INDA, Association of the Nonwoven Products Industry, to file comment on this proposed rule. Since then, SMART has had numerous meetings with staff at EPA and the Office of Management and Budget in an effort to get this rulemaking completed.

As we currently understand the situation, EPA commissioned a revised risk assessment for the proposed rule based largely on public comments submitted in response to the publication of the proposed rule (68 Fed. Reg. 65,586, November 30, 2003). Based on this revised risk assessment, EPA staff concluded that the Agency was compelled to issue a "Notice of Data Availability" (NODA) for additional public comment. This draft NODA was submitted to OMB for consideration in summer 2008 but was sent back to EPA last fall for alteration based on unspecified concerns that OMB had with the draft. EPA staff made the requested revisions and resubmitted the draft NODA to OMB but it was not finalized for publication prior to January 20, 2009.

In our 2004 comments to EPA, SMART noted concern with several aspects of the proposed rule but, overall, noted our strong support for the underlying concepts. If this rule is finalized with the changes SMART has requested, the end result will be greater capture and recycling of industrial solvent, less discharge of industrial solvent to public waterworks, and regulatory uniformity that has been long-sought by small businesses who use wiping products on a day-to-day basis.

For all of these reasons, SMART urges you to make the finalization of this important rule a priority for your new administration. We further underscore that a vast amount of time, money and energy has already been focused on this unresolved matter by EPA and private sector entities alike, all the issues are well known by the various stakeholders, and there should be no realistic reason for allowing this effort to languish further. Please, therefore, see to it that a final rule on this matter be issued at the earliest possible opportunity.

Sincerely,



Peter G. Mayberry
Executive Director