

Secretary of the State File Number

6250

Regulation of the
Department of Energy and Environmental Protection
Concerning

Wiper Rule

Regulations adopted after July 1, 2013, become effective upon posting to the Connecticut eRegulations System, or at a later date if specified within the regulation.

Posted to the Connecticut eRegulations System on **August 25, 2017**

EFFECTIVE DATE

August 25, 2017

Approved by the Attorney General on

April 21, 2017

Approved by the Legislation Regulation Review Committee on

June 27, 2017

Electronic copy with agency head certification statement electronically submitted to and received by the Office of the Secretary of the State on

August 24, 2017

IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES
This form should be used only for regulations first noticed *on and after March 23, 2015*.

Electronic Copy Certification Statement

(Submitted in accordance with the provisions of section 4-172 of the Connecticut General Statutes)

Regulation of the
The Department of Energy and Environmental Protection
Concerning
The Wiper Rule

Approved by the Legislative Regulation Review Committee: **June 27, 2107**
eRegulations System Tracking Number: **PR 2016-045**

I hereby certify that the electronic copy of the above-referenced regulation submitted herewith to the Secretary of the State is a true and accurate copy of the regulation approved in accordance with sections 4-169 and 4-170 of the *Connecticut General Statutes*.

And I further certify that in accordance with the approval of Legislative Regulation Review Committee, all required technical corrections, page substitutions and deletions, if any, have been incorporated into said regulation.

In testimony whereof, I have hereunto
set my hand on **August 24, 2017**.



Robert Kaliszewski
Deputy Commissioner
Department of Energy and Environmental
Protection

**State of Connecticut
Regulation of
Department of Energy and Environmental Protection
Concerning
Wiper Rule**

Section 1. Section 22a-449(c)-101 (a)(3) of the Regulations of Connecticut State Agencies is amended to read as follows:

(3) In addition to the provisions incorporated by reference in subdivisions (1) and (2) of this subsection, the provisions in subsections (b) [and (c)] to (d), inclusive, of this section shall apply.

Section 2. Section 22a-449(c)-101 of the Regulations of Connecticut State Agencies is amended by adding subsection (d) as follows:

(NEW)

(d)(1) In addition to the terms defined in section 22a-449(c)-100(c) of the Regulations of Connecticut State Agencies, when used in this subsection:

(A) “No free liquids” means the absence of free liquids in:

(i) Solvent-contaminated wipes as determined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” (EPA Publication SW-846) or any other test method approved in writing by the Commissioner; and

(ii) The container holding solvent-contaminated wipes.

(B) “Solvent-contaminated wipe” means a wipe that, after use or after cleaning up a spill, either:

(i) Contains one or more of the F001 through F005 solvents listed in 40 CFR 261.31 or the corresponding P or U listed solvents found in 40 CFR 261.33;

(ii) Exhibits a hazardous characteristic found in 40 CFR 261, Subpart C when that characteristic results from a solvent listed in 40 CFR 261; or

(iii) Exhibits only the hazardous waste characteristic of ignitability found in 40 CFR 261.21 due to the presence of one or more solvents that are not listed in 40 CFR 261.

“Solvent-contaminated wipe” does not include any wipe that contains listed hazardous waste other than solvents, or exhibits the characteristic of corrosivity, reactivity, or toxicity, as specified in 40 CFR 261.22, 40 CFR 261.23 or 40 CFR 261.24, respectively, due to contaminants other than solvents; and,

(C) “Wipe” means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

(2) Solvent-contaminated wipes that are sent for cleaning and reuse are not hazardous wastes from the point of generation, provided:

(A) Generators who accumulate solvent-contaminated wipes shall do so in a rigid, non-leaking container that:

(i) Is closed, meaning there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes;

(ii) Is labeled “Excluded Solvent-Contaminated Wipes” and with the start date each time that wipes first begin to be accumulated in the container;

(iii) Does not contain any other solid or hazardous waste; and

(iv) Does not allow free liquids to escape, should free liquids occur;

(B) For each such container, a generator accumulating solvent-contaminated wipes shall not accumulate such wipes for more than 180 days from the start date of accumulation;

(C) When any container of solvent-contaminated wipes is full or is being transported, or when solvent-contaminated wipes are no longer being accumulated in any such container, the container holding such wipes shall:

(i) Be rigid and non-leaking;

(ii) Be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(iii) Be labeled “Excluded Solvent-Contaminated Wipes” and with the date wipes began to be accumulated in the container;

(iv) Not contain any other solid or hazardous waste; and

(v) Not allow free liquids to escape, should free liquids occur;

(D)(i) The generator of solvent-contaminated wipes shall ensure that when being sent for cleaning on-site, such wipes and the container holding such wipes contain no free liquids; or

(ii) The generator of solvent-contaminated wipes and the transporter of such wipes shall ensure that at the point of being transported off-site for cleaning such wipes and the container holding such wipes contain no free liquids;

(E) The solvent-contaminated wipes are cleaned at a laundry or dry cleaner that, if required, has been issued any necessary permits or authorizations by the state or federal government regarding the discharge of wastewaters generated from the cleaning of solvent-contaminated wipes and has no unresolved warning or other notices of violation issued by, or enforcement actions taken by, the state or federal governmental regarding such wastewaters; and

(F) The following records shall be maintained by the generator of solvent-contaminated wipes at the site where such wipes are generated:

(i) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(ii) Documentation demonstrating that the 180-day accumulation time limit of subparagraph (B) of this subdivision is being met;

(iii) A description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids as required by subparagraph (D) of this subdivision;

(iv) Documentation showing the amount of solvent-contaminated wipes cleaned on-site each month; and

(v) Documentation, such as shipping papers or similar documents showing the amount of each shipment of solvent-contaminated wipes sent off-site for cleaning or laundering.

The records required by this subparagraph shall be maintained by the generator for at least three years from the date solvent-contaminated wipes were last sent for on-site or off-site cleaning. This period of retention shall be automatically extended during the course of any unresolved enforcement action regarding this section or as requested by the Commissioner.

(3) Solvent-contaminated wipes, but not including wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation, provided:

(A) Generators who accumulate solvent-contaminated wipes shall do so in rigid, non-leaking container that:

(i) Is closed, meaning that there is complete contact between the fitted lid and the rim, except

when it is necessary to add or remove solvent-contaminated wipes;

(ii) Is labeled “Excluded Solvent-Contaminated Wipes” and with the start date each time wipes first begin to be accumulated in the container;

(iii) Does not contain any other solid or hazardous waste; and

(iv) Does not allow free liquids to escape, should free liquids occur.

(B) For each such container, a generator of solvent-contaminated wipes shall not accumulate such wipes for more than 180 days from the start date of accumulation;

(C) When any container of solvent-contaminated wipes is full or is being transported, or when solvent-contaminated wipes are no longer being accumulated in any such container, the container holding such wipes shall:

(i) Be rigid and non-leaking;

(ii) Be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(iii) Be labeled “Excluded Solvent-Contaminated Wipes” and with the date wipes began to be accumulated in the container;

(iv) Not contain any other solid or hazardous waste; and

(v) Not allow free liquids to escape, should free liquids occur;

(D) The generator of solvent-contaminated wipes and the transporter of such wipes shall ensure that at the point of being transported for disposal such wipes and the container holding such wipes contain no free liquids;

(E)(i) The requirements of clause (ii) of this subparagraph are met and the solvent-contaminated wipes are disposed at:

(I) A municipal solid waste landfill subject to 40 CFR 258 or a state equivalent;

(II) A hazardous waste landfill subject to 40 CFR 264 or 265 or to corresponding state equivalents;

(III) A municipal waste combustor or other combustion facility subject to Section 129 of the Clean Air Act, 42 USC 7429, or to state requirements implementing Section 129 of the Clean Air Act, 42 USC 7429; or

(IV) A hazardous waste combustor (e.g., an incinerator, boiler or industrial furnace) subject to 40 CFR 264 or 265, or 40 CFR 266, Subpart H or to corresponding state equivalents.

(ii) Solvent-contaminated wipes shall be disposed of only at a landfill or combustion facility that has been issued the necessary permits or authorizations by the state or federal government to manage and dispose of solvent-contaminated wipes and has no unresolved warning or other notices of violation issued by, or enforcement actions taken by, the state or federal government regarding the management and disposal of solvent-contaminated wipes; and

(F) The following records shall be maintained by the generator of solvent-contaminated wipes at the site where such wipes are generated:

(i) Name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

(ii) Documentation demonstrating that the 180-day accumulation time limit of subparagraph (B) of this subdivision is being met;

(iii) A description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and

(iv) Documentation, such as shipping papers or similar documents, showing the amount of each shipment of solvent-contaminated wipes sent off-site for disposal.

The records required by this subparagraph shall be maintained by the generator for at least three years from the date solvent-contaminated wipes were last sent off-site for disposal. This period of retention shall be automatically extended during the course of any unresolved enforcement action regarding this section or as requested by the Commissioner.

(4)(A) Solvent-contaminated wipes that are not managed in compliance with the requirements of subdivision (2) or (3) of this subsection shall be hazardous wastes and managed in accordance with all applicable hazardous waste requirements. Any person who claims that solvent-contaminated wipes are not hazardous waste under this section shall demonstrate compliance with all applicable requirements of this section.

(B) The conditional exemption provided in subdivisions (2) and (3) of this subsection shall not apply to:

(i) Free liquids or other wastes from solvent-contaminated wipes or from the container holding such wipes. Any such liquids or wastes which shall be managed as a hazardous waste in compliance with the state hazardous waste management regulations; and

(ii) Residuals generated from cleaning solvent-contaminated wipes. Any person managing such residuals shall determine if such residuals exhibit a hazardous characteristic according to 40 CFR 261, Subpart C, and if so, shall manage such residuals in compliance with the state's hazardous waste management regulations. If the residuals do not exhibit a hazardous characteristic, the residuals shall be managed as a solid waste in compliance with chapter 446d of the Connecticut General Statutes or any other applicable law.

R-39 Rev. 02/2012

Statement of Purpose

This proposed regulation would conditionally exempt certain disposable and reusable wipes contaminated with solvents from regulation as a hazardous waste. Currently, solvent contaminated wipes being disposed of must be managed as a hazardous waste, while solvent contaminated wipes that will be reused (e.g., after laundering) are, by policy, not subject to full regulation as a hazardous waste in an effort to encourage recycling. The proposed regulation would provide a consistent framework and conditionally exempt both types of solvent contaminated wipes from regulation as a hazardous waste, provided the conditions specified in the proposed rule are followed (i.e. record keeping, closed containers, labeling, an accumulation time limit, and no free liquids at the point of being sent for cleaning or disposal). The rule should reduce overall compliance costs for industry, especially small business. If the conditions specified in the proposed rule are not satisfied, the wipes remain subject to regulation as hazardous waste. The proposed rule is modeled after a similar federal rule.

IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES

This form is to be used for proposed permanent and technical amendment regulations only and must be completed in full.

AGENCY CERTIFICATION**Department of Energy and Environmental Protection**

Proposed Regulation Concerning

SOLVENT WIPES RULE

eRegulations System Tracking Number PR2016-045

I hereby certify the following:

(1) The above-referenced **regulation** is proposed pursuant to the following statutory authority or authorities: **CGS Section 22a-6 and 22a-449(c)**.

For technical amendment regulations proposed without a comment period, complete #2 below, then skip to #8.

(2) As permitted by Section 4-168(h) of the *Connecticut General Statutes*, the agency elected to proceed without prior notice or hearing and posted the text of the proposed technical amendment regulation on eRegulations System website on _____

For all other non-emergency proposed regulations, complete #3 - #7 below, then complete #8)

(3) The agency posted notice of intent with a specified comment period of not less than 30 days to the eRegulations System website on **February 3, 2017**.

(4) *(Complete one)* No public hearing held or was required to be held. **OR** One or more public hearings were held on: _____

(5) The agency posted notice of decision to move forward with the proposed regulation to the eRegulations System website on **March 29, 2017**.

(6) *(Complete one)* No comments were received. **OR** Comments were received and the agency posted the statements specified in subdivisions (2) and (3) of CGS Section 4-168(e) to the eRegulations System website on **March 29, 2017**.

(7) The final wording of the proposed regulation was posted to the eRegulations System website on **March 29, 2017**.

(8) Subsequent to approval for legal sufficiency by the Attorney General and approval by the Legislative Regulation Review Committee, **the final regulation shall be effective**

(Check one and complete as applicable)

When posted to the eRegulations System website by the Secretary of the State.

OR On _____

(Date must be a specific calendar date not less than 11 days after submission to the Secretary of the State)

SIGNED

[Signature]
(Head of Board, Agency or Commission,
or duly authorized deputy)

Deputy Commissioner
OFFICIAL TITLE

DATE

3/29/17

OFFICE OF THE ATTORNEY GENERAL
REGULATION CERTIFICATION

**Agency: Connecticut Department of Energy and Environmental
Protection**

REGULATION NUMBER: PR2016-045

**This Regulation is hereby APPROVED by the Attorney General as
to legal sufficiency in accordance with Connecticut General Statutes
Section 4-169.**

DATE: 4/21/2017

Signed:


Robert Clark, Assistant Attorney General
Duly Authorized

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator Paul Doyle
Senate Chair



Representative Christie Carpino
House Chair

Official Record of Committee Action

June 27, 2017

Agency: Department of Energy & Environmental Protection
Description: Wiper Rule
LRRC Regulation Number: 2017-012
eRegulation Tracking Number: PR2016-045

The above-referenced regulation has been

Approved with Technical Corrections

by the Legislative Regulation Review Committee in accordance
with CGS Section 4-170.

Kirstin L. Breiner
Committee Administrator



State of Connecticut
Office of the Secretary of the State

Confirmation of Electronic Submission

Re: Regulation of the Department of Energy and Environmental Protection
concerning Wiper Rule
eRegulations System Tracking Number PR2016-045
Legislative Regulation Review Committee Docket Number 2017-012

The above-referenced regulation was electronically submitted to the Office of the Secretary of the State in accordance with Connecticut General Statutes Section 4-172 on August 24, 2017.

Said regulation is assigned Secretary of the State File Number 6250.

The effective date of this regulation is August 25, 2017.

A handwritten signature in black ink that reads "Denise W. Merrill".

Denise W. Merrill
Secretary of the State
August 25, 2017

By:

/s/ Kristin M. Karr

Kristin M. Karr
Administrative Law
Information Systems Manager