

Solvent Continued Use

Guidance on Hazardous Waste Requirements



Introduction

The term 'continued use' or 'continued use policy' refers to when a material has been used and can be reused for its original intended purpose **without any reclamation**. For example, used solvents associated with cleaning and manufacturing processes typically contain a variety of contaminants including chemicals, metals and solid particulates. In many cases, the used solvent is contaminated to the point where treatment is required before it can be reused. In cases where the used solvent is only lightly contaminated, it can potentially be used again without any reclamation or processing.

Hazardous waste regulations are found in chapters [NR 600-679](#) of the Wisconsin Administrative Code.

Used solvents that are legitimately reused in this manner are:

- Not subject to regulation as hazardous wastes under the Resource Conservation and Recovery Act (RCRA).
- Not considered spent materials under RCRA. "Spent materials" are defined as any material that has been used, and due to contamination can no longer serve the purpose for which it was produced without reclamation or processing.
- Not hazardous secondary materials regulated under s. NR 661.0002(5)(a), Wis. Adm. Code, because the used solvents in this case are not yet "spent material."

The continued use management option does not apply if the used material is:

- reclaimed or processed before reuse;
- used in a manner constituting disposal;
- used to produce products that are applied to the land or burned for energy recovery;
- used to produce a fuel or added to a fuel;
- accumulated speculatively; or
- a material listed in ss. NR 661.02(4)(a) and (b), Wis. Adm. Code.

Solvents that qualify for continued use could be used in the same facility where they were originally used or potentially shipped to a different facility for use. It is important to ensure that material claimed as continued use meets the criteria in this document to avoid adverse regulatory outcomes. For example, sending a material to another facility under a continued use policy that is then determined to be a hazardous waste could constitute shipping hazardous waste to an unlicensed hazardous waste facility.

This document outlines the common definitions, details on the eligibility criteria, recordkeeping requirements and department recommendations, along with additional background information pertaining to the continued use of unspent materials.

Definitions and Background

Broker: Intermediate company or consulting firm managing the continued use material between the generator and the receiving facility.

Intended purpose: The original purpose of the material use. Example: a solvent used as an ingredient or product in a manufacturing process cannot be reused as a cleaning solvent.

Receiving facility: End user of continued use material. The receiving facility must legitimately use the continued use material in a manner similar to the material's original intended purpose and use.

Reclaimed: A material is "reclaimed" if it is processed to recover usable product, or if it is regenerated. [s. NR 661.0001(3)(d), Wis. Adm. Code]

Solvent Continued Use: A used material which can be reused for its original intended purpose without undergoing treatment, processing or reclamation before being reused.

Spent material: a spent material is defined as any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing. [s. NR 661.0001(3)(a), Wis. Adm. Code]

Used or reused: A material is "used or reused" if it is employed in a function or application as an effective substitute for a commercial chemical product. [s. NR 661.0001(3)(e)2, Wis. Adm. Code]

Background: EPA addressed continued use in a memo, RCRA Online document RO 14281, which reads: "The Agency has previously stated that when a used solvent is employed for another solvent use, this continued use indicates that the solvent remains a product. The used solvent in this case is a material continuing to be used as a solvent, the purpose for which it is intended, rather than a spent material being reused. Consequently, the used solvent to be employed for drum washing would not be considered a solid waste and would not be subject to the Resource Conservation and Recovery Act ("RCRA") Subtitle C hazardous waste regulations when generated, transported, or used. 50 Fed. Reg. 614, 624 (1985). Accordingly, used parts washing solvents that are collected and consolidated by [the facility] and then used for drum washing without first being reclaimed would not be a RCRA solid waste."

Eligibility Criteria

It is the generator's responsibility to ensure that used materials managed under the continued use exclusion are legitimately reused and meet the criteria listed below. Contact program staff if you have questions about materials that may be eligible. [s. NR 661.0001(3)(a), Wis. Adm. Code]

For a material to be considered as continued use (and not as a spent material under RCRA) the following criteria must be met:

1. The continued use material must be reused in the same manner as its original use. This means a solvent used for a cleaning purpose cannot be reused as an ingredient to make a product as that is not considered as used for its original purpose.
2. The continued use material cannot be treated, processed, or reclaimed before being reused. Under s. NR 661.0001(3)(d), Wis. Adm. Code, a material is reclaimed if it is processed to recover a usable product, or if it is regenerated.
3. The continued use material cannot be combined with other cleaner materials or blended to dilute contaminants in order to make the continued use material more amenable for reuse.

Solvent regeneration is a type of reclamation process.

4. The continued use material must be similar to (i.e., lightly used) the original product material. It should not have hazardous constituents or characteristics that are not present in the original product and should not vary significantly from the Safety Data Sheet (SDS) for the original product. For example, a continued use solvent should not contain significant amounts of water or solids as these contaminants could make the continued use solvent less effective for cleaning when compared to the original, fresh solvent.
5. The material for continued use must be an effective substitute and used in a legitimate manner. For example, continued use solvents used for drum washing must:
 - a. Be effective for the drum-washing operation, especially if the used solvents substitute for solvents that would otherwise have to be purchased.
 - b. Be used only for washing drums that need to be washed.
 - c. Not be used in excess of what would normally be required to wash drums.
6. The continued use material cannot be:
 - a. Used in a manner constituting disposal. For example, continued use solvents cannot be used as a feedstock for an asphalt-based product such as driveway sealer or used as diluents or carriers for pesticides. Other examples include fill or cover, structural support, soil conditioner, dust suppressant, ingredient in a fertilizer, construction of roads.
 - b. Burned for energy recovery, used to produce a fuel or contained in fuels.
 - c. Accumulated speculatively, as defined by s. NR 661.0001(3)(h), Wis. Adm. Code.
 - d. Listed in ss. NR 661.0002(4)(a) and (b), Wis. Adm. Code. Common examples include F020, F021, F022, F023, F026 and F028 listed solvents.

Not being able to meet all the above criteria is a strong indication that the material is not eligible for continued use.

Recordkeeping

The recommended documentation and recordkeeping outlined below can demonstrate that the material meets the eligibility criteria above and is not a spent material subject to regulation as a hazardous waste under RCRA. It is recommended that records be retained for a minimum of three years after the date of the last shipment of the continued use material. Failure to have adequate documentation may be considered an indication that the continued use material is a spent material subject to RCRA regulations. [s. NR 661.0001(3)(a), Wis. Adm. Code]

Generator responsibilities

A generator claiming a material meets the continued use criteria should maintain the following documentation for materials being managed under the continued use policy:

1. The name and location of the broker (if applicable).
2. The name and location of the end user of the continued use material.
3. The contract or agreement from the broker and end user of the continued use material.
4. A description of how the continued use material will be reused to show that eligibility criteria 1, 2, 3, and 5 are met.
5. The SDS of the original product and laboratory analysis of the used material to show that criterion 4 is met.
6. The parameters relating to the end use that the continued use material must meet to show that eligibility criteria 4 and 5 are met. Examples of information to include:
 - a. The percentage of water in the material before and after use
 - b. The percentage of solids in the material before and after use
 - c. The flashpoint of the material before and after use

- d. The percentage of oil and grease in the material before and after use
 - e. Lab analysis records indicating additional hazardous constituents or characteristics of the used material
7. Records to clearly show:
 - a. The amounts of the continued use material generated by your facility
 - b. The amounts of continued use material shipped and received by the receiving facility.
 8. Periodic reports from the end user (receiving facility) to verify the used material was used legitimately and consistent with the criteria in this document.

Broker responsibilities

A broker managing continued use material should maintain similar documentation as the generator, to demonstrate the material meets the eligibility criteria above and is not a spent material subject to RCRA. It is important that the broker ensure that material claimed as continued use meets the criteria in this document to avoid adverse regulatory implications. Incorrectly managing and transporting as continued use a material that is actually a spent material or a hazardous waste to another facility would constitute shipping hazardous waste to an unlicensed hazardous waste facility. Incorrectly identifying and managing such a material as a continued use material at a facility could constitute unlicensed storage and treatment. [NR 661.0001(3)(a)]

DNR Contact Information

For more information including [publications, inspection forms, and administrative codes and statutes](#), go to dnr.wi.gov and search “hazardous waste resources.” Use the *Additional Resources* menu to navigate to specific topics. For staff contact information, go to the [staff directory](#) and enter “hazardous waste requirements” in the subject field and choose the appropriate county contact.

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