

scrubbers usually generate an aqueous stream that is easily treatable in the wastewater treatment system. The scrubber waters, however, are considered "derived from" residuals of the spent solvents, and since they are not incidental losses to the wastewater treatment system, they are not currently eligible for the headworks exemptions.

In the carbamates final rule (60 FR 7824–7859, February 9, 1995), the Agency decided that scrubber waters from the incineration of carbamate production wastes are eligible for the headworks exemptions that were promulgated under that listing determination. The justification for this decision was that these scrubber waters would be comparable in expected constituents and concentration levels with the already-exempted carbamate wastewaters.

Based on the rationale in the carbamates rule, the Agency is proposing that scrubber waters derived from the combustion of spent solvents and sent to a facility's wastewater treatment system qualify for the exemption under 40 CFR 261.3(a)(2)(iv)(A) and (B). Similar to the carbamates decision, we believe that the scrubber waters derived from combustion of spent solvent wastes will be comparable in expected constituents with spent solvent wastewaters. In addition, the solvent constituents receive at least 99.99% destruction and removal during incineration, the incinerator scrubber water is typically a small percentage of the flow into a wastewater treatment system, and the wastewater treatment system further reduces remaining constituent concentrations. The Agency requests comment on this proposed revision.

D. Exempting Leachate Derived From Solvent Wastes

Another suggested revision to the headworks rule is to exempt leachate from landfills that accepted only F001–F005 spent solvent wastes. Under current rules, leachate resulting from the disposal of more than one listed waste under 40 CFR part 261, subpart D is classified as EPA Hazardous Waste Number F039. Since no exemption currently exists under the headworks rule for F039 liquids, these leachates (even if derived solely from spent solvents) cannot be inserted into a facility's wastewater treatment system and receive an exemption from the mixture rule.

BRS data from 1997 show the presence of 12 hazardous waste landfills that accept only F001–F005 spent solvent hazardous wastes and no other listed wastes. These landfills are both

on-site at manufacturing facilities and commercial hazardous waste landfills. In addition, three other landfills list characteristic waste codes, commercial chemical products, and lab packs with the spent solvent wastes. The waste codes in question may be associated with the solvents themselves. For example, D001 wastes are ignitable, and may be from the same solvents. The U226 waste code corresponds to 1,1,1-trichloroethane as a commercial chemical product. The chemical, when used as a solvent and subsequently spent, would carry an F001 or F002 waste code.

The Agency does not have sufficient data concerning the variability of these leachates to propose adding them to the exemption at this time. The Agency seeks comment as to whether such an exemption would be advisable, the relative volumes of leachate to other wastewaters going for treatment, and the relative concentrations of other contaminants in leachate versus those present in the other wastewaters at these facilities. The Agency also seeks comment as to whether landfills that accept characteristic wastes, lab packs, or commercial chemical products that correspond to the chemicals that are also listed spent solvents should be eligible to have leachate sent to a facility wastewater treatment system and be exempted.

At this point, the Agency is not proposing an exemption for solvent-only leachate. Therefore, in the final rule to today's proposal, the Agency does not expect to include any regulatory language exempting any of these leachates. Rather, the Agency is considering the leachate exemption discussion being advanced in today's proposal as an Advanced Notice of Proposed Rulemaking (ANPRM).

E. Exempting Other Types of Leachate

The ACC also has requested that the Agency consider establishing an exemption to allow facilities with unlined surface impoundments attached to wastewater treatment systems to accept hazardous waste landfill leachate into the wastewater treatment system without the need for the unlined surface impoundment to obtain a hazardous waste treatment, storage, and disposal permit.

At this time, EPA still is considering the suggested regulatory exemption for leachate derived from landfilled hazardous waste as well as other specific exemption options, but we first need to evaluate several important issues. Most hazardous waste leachate is regulated under a separate waste code, F039. To date, we have received no

information that would cause us to reconsider that listing, although we would welcome any data that might be helpful in such a re-evaluation. However, in the most recent EPA study of landfill leachate characteristics (65 FR 3007, January 19, 2000), we found considerable differences between the leachate samples from hazardous and non-hazardous landfills in both numbers of constituents of concern and their concentrations. Specifically, hazardous waste landfill leachate contained a greater number of constituents than non-hazardous waste landfill leachate, and the constituents found in both hazardous and non-hazardous waste landfill leachate generally were present in hazardous waste landfill leachate at concentrations an order of magnitude higher than those found in non-hazardous waste landfill leachate⁵. These pollutants can include many organic hazardous constituents not covered by the Toxicity Characteristic. Absent a risk assessment, it is not possible to determine whether the levels of these constituents pose unacceptable risk. However, the presence of these constituents is a strong indication that more study would be needed before developing an exemption for hazardous waste leachate.

One option would be to limit a possible future exemption to leachates from captive, on-site hazardous waste landfills. The Agency would be inclined to propose this limitation because landfills that accept off-site wastes will likely have a different constituent mix from those constituents in the facility wastewater treatment system. The Agency again seeks comment as to whether such an exemption would be advisable, the relative volumes of leachate to other wastewaters going for treatment, and the relative concentrations of other contaminants in leachate versus those present in the other wastewaters at these facilities.

At this point, the Agency is not proposing an exemption for non-solvent leachate. Therefore, the Agency does not expect to include any regulatory language in the final rule to this proposal without first seeking comment on a more fully-developed proposal.

F. Expanding the De Minimis Exemption

The current mixture rule exemption under 40 CFR 261.3(a)(2)(iv)(D) is a provision to remove from regulation small amounts of commercial chemical products (P- and U-listed wastes under

⁵ Development Document for Final Effluent Limitations Guidelines and Standards for the Landfills Point Source Category, EPA-821-R-99-019, U.S. EPA, January 2000.