

II. Legal Authority

EPA proposes these regulations under the authority of Sections 2002, 3001–3010, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912, 6921–6930, and 6974.

III. Summary of Proposed Changes

EPA today proposes a conditional exclusion from the regulatory definition of hazardous waste for solvent-contaminated industrial wipes going to disposal and combustion, including use as a fuel, and a conditional exclusion from the regulatory definition of solid waste for solvent-contaminated reusable wipes, shop towels, and rags that are sent for laundering or dry cleaning (hereinafter referred to as disposable industrial wipes and reusable industrial wipes, respectively). As long as the specified conditions are met, the Agency proposes that the exclusions from both the definition of hazardous waste and the definition of solid waste be applicable to (1) industrial wipes exhibiting a hazardous characteristic (*i.e.*, ignitability, corrosivity, reactivity, or toxicity)¹ due to use with solvents or (2) industrial wipes contaminated with F001–F005 spent F-listed solvents or comparable P- and U-listed commercial chemical products that are spilled and cleaned up with industrial wipes. This proposal would not affect the regulatory status, under federal regulation, of Conditionally Exempt Small Quantity Generators (CESQGs)—those that generate no more than 100 kilograms of hazardous waste or no more than one kilogram of acutely hazardous waste in a month and who accumulate no more than 1000 kilograms of hazardous waste or no more than one kilogram of acutely hazardous waste at one time.

It has long been EPA's policy to encourage the appropriate state or EPA regional office to characterize the regulatory status of laundered and reused wipes based on site-specific factors. (See Appendix B, which contains a policy memo from Mike Shapiro, Director, Office of Solid Waste, to EPA Waste Management Division

Directors, February 14, 1994.) Most authorized states already exclude reusable wipes from the definition of solid or hazardous waste as long as certain basic conditions are met, such as the removal of free liquids by the user. It is not EPA's intent to modify or in any way limit the existing state or EPA regional exclusions or policies through this proposed Federal rulemaking. Because this action is a proposed rulemaking, provisions of the proposal, as well as EPA's assumptions and rationale leading to them, are subject to public notice and comment. Therefore, until a final rule governing these materials is issued, the regulatory status and classification of these materials, including all regulatory exclusions under the current RCRA programs implemented by a state or EPA region implementing the RCRA program, remain unchanged. See section IX.B. of this preamble for the effect this rule would have on the RCRA program in authorized states when finalized.

EPA's recent examination of solvent-contaminated industrial wipes is a result of issues and questions raised by stakeholders concerning the Agency's current policy on these materials. In developing our response to those concerns, EPA also conducted a risk screening analysis and an investigation of potential damages from mismanagement of solvent-contaminated industrial wipes to make sure risks from wipes management would be addressed and taken into consideration.

We emphasize that EPA's concern surrounding the use of both types of industrial wipes—disposables and reusables—is based on the hazardous solvent contained in the used wipes, not the industrial wipes themselves. This proposed rule would not apply to industrial wipes contaminated with aqueous-based solvents or solvents that, when spent, are not hazardous wastes. We strongly recommend that generators examine the feasibility of substituting non-hazardous solvents for hazardous solvents. By using non-hazardous solvents, individual facilities may eliminate or reduce compliance costs associated with RCRA and the Clean Air Act (CAA), as well as U.S. Occupational Safety and Health Administration (OSHA), and U.S. Department of Transportation (DOT) regulations. For generators using reusable industrial wipes that are managed by an industrial laundry or dry cleaner, indirect costs associated with Clean Water Act (CWA) regulations may also be reduced. We also encourage generators to examine the possibilities of resource conservation through removal and

reclamation of their solvents, if possible, and believe that the changes proposed today will encourage additional reclamation of hazardous solvents.

The conditions that would be required for the exclusion from the definition of hazardous waste and the exclusion from the definition of solid waste are outlined below. For a more detailed discussion of generator, handler and processing facility conditions, see Section V.

A. Generator Conditions

1. Generator Conditions: Exclusion From the Definition of Hazardous Waste

For disposable solvent-contaminated industrial wipes that will be managed at a non-landfill disposal facility to meet the exclusion from the definition of hazardous waste, generators would be required to (1) accumulate and store solvent-contaminated wipes on site in non-leaking covered containers; (2) ensure that the solvent-contaminated wipes contain no free liquids, except as noted below, when transported off site to a handling facility; and (3) transport the solvent-contaminated industrial wipes off site in containers designed, constructed, and managed to minimize solvent loss to the environment and labeled "Excluded Solvent-Contaminated Wipes."

Today's proposal would also require that disposable solvent-contaminated wipes managed at municipal landfills or other non-hazardous waste landfills that meet the standards under 40 CFR part 257 subpart B (the disposal standards applicable to the receipt of CESQG wastes at non-municipal, non-hazardous waste disposal units)² (i) must be "dry" (*i.e.*, contain less than five grams of solvent), and (ii) must not contain any of the 11 listed spent solvents which the Agency has tentatively determined may pose adverse risks to human health and the environment when disposed of in a landfill, even if the wipe is "dry." See Table 1 below for the listed solvents that, when contaminating industrial wipes, would make landfilled wipes ineligible for an exclusion from the definition of hazardous waste. In other words, wipes contaminated with Table 1 solvents would not be allowed in municipal landfills or other non-hazardous waste landfills under the provisions of this proposal.

¹ Solvent-contaminated industrial wipes that are co-contaminated with another material that makes them characteristically hazardous for corrosivity, reactivity, or toxicity would not be eligible for the exclusion from the definition of hazardous waste or the exclusion from the definition of solid waste. If the industrial wipes are co-contaminated with a material that makes them characteristically hazardous for ignitability, they would remain eligible. For more discussion of this provision, see Section V.B.11.

² For the purposes of today's preamble, we will use the term *other non-hazardous landfill* to denote part 257 subpart B compliant non-hazardous waste landfills. If a non-hazardous landfill that is not a municipal landfill accepts this waste, it must meet the minimum standards of 40 CFR part 257 subpart B.