

handling of flammable and combustible liquids is incidental to the principal business (e.g., solvents used for cleaning presses at printing facilities).” At industrial plants, flammable liquids must be stored in tanks or *closed containers*, defined as a container that is sealed with a lid or other device to prevent the release of liquids or vapors at ordinary temperatures (§ 1910.106(a)(9)).

Storage of spent solvent wipes that contain a negligible amount of solvents may be addressed under OSHA’s regulations at 29 CFR 1910.106 (e)(9)(iii), which describe general housekeeping measures for “combustible waste material and residues” and residues of flammable liquids, combustible waste material and residues in a building or unit operating area. These standards specify that these materials are to be (1) kept to a minimum; (2) stored in covered metal receptacles; and (3) disposed of daily. However, these standards may not apply to solvents if they do not meet OSHA’s definition of *flammable liquid*, although they may still be hazardous waste under RCRA.

We believe that OSHA requirements would be applicable in some situations involving solvent-contaminated industrial wipes and that those generators following OSHA’s requirements would be managing their wipes in a protective manner. Another advantage of using the OSHA standards would be that many generators are already familiar with these standards. These standards would not, therefore, complicate implementation of the conditional exclusion.

However, it appears there would be gaps in coverage if we relied strictly on deferring to OSHA regulations. For example, the OSHA container standards may not apply to contaminated wipes with no free-flowing liquids or when wipes are contaminated with non-flammable solvents and, therefore, OSHA regulations may not cover every workplace that RCRA does. Note, however, that if generators meet the OSHA standard for flammable liquids (whether or not that standard is applicable to them under OSHA), they will meet the condition proposed here.

#### c. Request for Comment

We request comment on our proposal for accumulating spent reusable solvent-contaminated industrial wipes in non-leaking, covered containers while at the generator’s facility. We also seek comment on whether wipes are accumulating at generator sites in large numbers that may pose a risk to human health and the environment and on the

option of adding an accumulation time limit to this accumulation condition. In addition, we seek comment on the desirability of deferring to OSHA regulations for the proper storage of solvent-contaminated wipes on site at a generator’s facility.

### 3. Proposed Conditions for Containers Used for Transportation

#### a. Proposed Condition

We are proposing a condition for containers generators use to transport solvent-contaminated industrial wipes off site under the conditional exclusion from the definition of hazardous waste. This condition is to ensure that transporting industrial wipes without full RCRA hazardous waste requirements will still protect against any risks posed by these materials to human health and the environment. Under this proposal, generators must transport industrial wipes in containers that are designed, constructed and managed to minimize loss to the environment. In proposing this condition, EPA intends for transporters to use containers that do not leak liquids and that provide for control of air emissions. This condition is designed to minimize loss of solvent to the environment during transportation and, therefore, minimizes risk as well. Minimization of loss through evaporation or leakage also makes it more likely that larger quantities of solvent will be recycled or properly managed.

EPA has chosen to propose a condition designed as a performance standard for this condition because it provides industry the ability to be creative in developing less expensive ways to reach a desired outcome. Because there are several common ways industrial wipes are presently transported that meet this description, such as in drums and in plastic bags, EPA determined that a performance standard would be a more flexible way to ensure protective management than establishing specific conditions that might unintentionally force the use of specific containers or types of containers. A performance standard allows for use of a wide variety of containers so generators could continue with current practices where appropriate. For example, we would consider containers that meet DOT packaging requirements for hazardous materials to meet the proposed performance standard, as would closed, sealed, impermeable containers. Plastic bags or cloth bags that were cinched shut might also meet this condition. Closed cinched bags would minimize

exposed surface area and, thus, minimize evaporative loss and, provided no free liquids were present, as required, may not release liquid solvents. We would consider hazardous solvents that are spilled or leaked during transportation to be disposed and those managing the industrial wipes at the time the spill occurred would be responsible for managing the spilled hazardous waste according to generally applicable RCRA requirements. The excluded industrial wipes would remain excluded if the spill were managed properly and promptly.

Generators would also have to comply with the existing DOT standards.<sup>9</sup> EPA believes that the “designed, constructed, and managed to minimize loss to the environment” condition is necessary because the DOT regulations may not be applicable to all solvent-contaminated wipes if they do not meet certain DOT definitions, such as “solids containing flammable liquid.” Proposing this performance standard ensures that the container condition would apply to all solvent-contaminated industrial wipes to which today’s proposal applies.

EPA’s condition for transportation does not specify that the containers must be closed (*i.e.*, containers with lids screwed on). Nevertheless, EPA believes that closed containers would minimize loss to the environment. We do not expect that open containers would meet the performance standard due to the potential for wipes and/or solvent to be released from the container if an open container tipped over during transportation. We also do not believe that containers that are open to the environment would minimize other losses, such as evaporative losses.

#### b. Other Option

##### Closed Containers

EPA is also considering an alternative option of requiring all generators of

<sup>9</sup> DOT’s Hazardous Materials Regulations (HMR) state that any person who offers a material for transportation in commerce must determine whether the material is classified as a hazardous material. Typically, reusable solvent-contaminated wipes are classified as “solids containing flammable liquid, n.o.s.” (see 49 CFR 172.101). Under 49 CFR 172.102, Special Provision 47 allows mixtures of solids not subject to regulation as a hazardous material and flammable liquids to be transported under the generic entry “solids containing flammable liquid, n.o.s.” without first applying the classification criteria of Division 4.1 Flammable Solids, provided there is no free liquid visible at the time the material is loaded or at the time the packaging or transport unit is closed. All packaging must correspond to a design type that has passed a leak proof test at the Packing Group II level. Containers which are authorized for transporting hazardous materials in Packing Group II are listed under 49 CFR 173.212 and include, among other things, steel, aluminum, or plastic drums and plastic or cloth bags.