

free liquids" condition to be placed in municipal or other non-hazardous waste landfills without being required to meet the "dry" condition.

Finally, we are requesting comment on whether solvent-contaminated industrial wipes meeting the "dry" condition should be required to meet the transportation requirements for wipes described in section V.B.3. The rationale for not specifying transportation standards would be that the level of solvents escaping would be insignificant if the industrial wipes were to contain less than 5 grams of solvent each. This option would increase relief for generators whose wipes meet the "dry" condition, but would complicate implementation of the rule both for regulators and generators.

6. Proposed Condition for Transportation to Non-Land Disposal Facilities

a. Proposed Condition

EPA is proposing a "no free liquids" condition to apply to solvent-contaminated industrial wipes going for disposal at a non-land disposal unit such as a municipal waste combustor (MWC) or other combustion unit (circumstances when the industrial wipes are used as a fuel are included) or to solvent-contaminated industrial wipes sent to an intermediate handler for further processing to meet the "dry" condition for disposal in a municipal or other non-hazardous waste landfill. This final case would apply to a generator who wants to send its solvent-contaminated industrial wipes to a landfill, but does not want to be responsible for making them meet the "dry" condition. The generator could send them to an intermediate handler under the "no free liquids" condition and contract with that handler to remove enough solvent that the wipes would meet the "dry" condition. This condition is meant to minimize the likelihood of loss of solvent into the environment, as well as to encourage solvent recovery and pollution prevention by generators.

In developing the "no free liquids" condition, EPA hopes to make it simple enough that both generators and handlers of the materials, as well as regulatory officials, would easily be able to verify that free liquids have been removed from the industrial wipes. For wipes to meet the "no free liquids" condition, no liquid solvent could drip from them when sent off site. In addition, no free liquids may be present in the bottom of the container in which the wipes are transported.

One concern certain stakeholders have expressed with this proposed condition is that once in a container, either at the generator site or in transit, industrial wipes can compress and solvent can percolate through them, collecting at the bottom of a container. This means that, while there may not have been free liquids in the container at the generator site, some may be generated during transportation. EPA believes that generators can take steps to minimize percolation by using less solvent or by recovering solvent from wipes before they are transported. However, EPA acknowledges that in some cases percolation can result in free liquids at the bottom of a container.

Because of percolation effects, the proposed rule contains the provision that, if free liquids are discovered at the handling/combustion facility, the solvent-contaminated wipes would remain excluded from the definition of hazardous waste as long as the handler either removes the solvent and manages it appropriately, or returns the shipment to the generator as soon as reasonably practicable, as described in Section V.B.10.a. However, if solvents escaped the container as a result of percolation, the container would not meet the "minimize loss" condition described above. Similarly, the mismanagement of the free solvents by the handler, either by illegal disposal or other means, would be a violation of the conditions of the exclusion. Because the generator is originally responsible for the existence of free liquids in the wipes, it would also be potentially responsible for the wipes having lost the exclusion at the handler despite the wipes being out of the generator's control at that moment.

Note that handlers/combustors would be required to determine whether the solvent which has been removed from the industrial wipes is listed as a hazardous waste or exhibits a characteristic of a hazardous waste as defined in 40 CFR part 261. Any hazardous waste solvent removed from the wipes would have to be managed in accordance with hazardous waste requirements found at 40 CFR parts 260 through 268 and 40 CFR part 270. In addition, for purposes of this proposed regulation, techniques or technologies used by generators to remove solvent from the wipes would not be defined as treatment under RCRA and, therefore, would not be subject to RCRA permitting (*see* Section V.B.8. for further discussion).

b. Other Option

EPA is considering a "no free liquids when wrung" condition instead of the

"no free liquids" condition. Some states favor this approach, as it may minimize the chance for later solvent releases. They argue that this condition may result in better solvent management and less frequent receipt of free liquids at handling or combustion facilities. This approach differs from what we are proposing in that it would require that each wipe could not drip solvent when hand wrung. Some stakeholders argued that such a requirement would be a substantial change from current state policies on free liquids and would be burdensome for generators to implement. They also argue that this would expose wipes to the air more than necessary and, in essence, would require that the wipes be wrung immediately prior to placement on the shipping vehicle, further burdening generators. Based on these concerns, we are not including "when wrung" as part of the "no free liquids" condition in this proposal, but are seeking information on whether the benefits of an extra step of solvent removal at the generator outweigh the limitations of these concerns.

c. Request for Comment

We request comment on our proposed "no free liquids" condition and our decision not to propose a "no free liquids when wrung" condition.

d. How Can Generators Meet the "No Free Liquids" Condition?

Presently, state agencies have established several methods for verifying compliance with state-imposed "no free liquids" standards for a container or individual wipe. The majority of states require the use of the Paint Filter Test (SW-846 Method 9095) though other specified methods include the Liquids Release Test (SW-846 Method 9096), and the Toxicity Characteristic Leaching Procedure (TCLP) (SW-846 Method 1311). The Commonwealth of Massachusetts has established a "one drop" standard, where generators must ensure that the wringing of a wipe will not result in a drop of liquid flowing from the material. We understand that, although these are by no means the only ways of meeting the "no free liquids" condition, if generators meet any of these state standards or if they hand wring wipes, it is unlikely that the "no free liquids" condition proposed today would be violated.

In this proposal, EPA intends for compliance with the "no free liquids" condition to be determined by a practical test. That is, does a wipe drip liquid from it when held for a short period of time, for example, when being