

contaminated industrial wipes either (a) in containers that are designed, constructed, and managed to minimize loss to the environment that would meet the transportation conditions in today's proposal, or (b) in non-leaking covered containers that would meet the generator conditions in today's proposal.

The second condition is that if facilities (other than those intra-company facilities where solvent is removed) receive solvent-contaminated industrial wipes with free liquids, in order to retain the exclusion from the definition of hazardous waste for the wipes, the facility would be required to either (a) return the container (with the wipes and liquid) to the generator as soon as reasonably practicable (e.g., with the next scheduled delivery), or (b) recover any liquid solvent that arrives at the facility and properly manage it under federal or state hazardous waste regulations, as applicable. When returning the wipes and liquid to the generator, the facility would have to transport them in containers that meet the original shipment condition, but would not be required to use a hazardous waste manifest.

The objective of this condition is to address situations where free liquids arrive with industrial wipes at a handling facility through no fault of the handling facility. A shipment of industrial wipes would be considered to contain free liquids either if solvent drips from the wipes or if there are free liquids in the bottom of the container of industrial wipes. Rather than subject the industrial wipes to RCRA hazardous waste requirements in this situation, EPA is proposing that they be allowed to be further processed to ensure that the conditions of the hazardous waste exclusion are met and that removed solvents are appropriately managed either by the receiving facility or the original generator. We believe this can be done safely and we also believe that this will provide additional incentive for solvent recovery. At any time that hazardous solvents are spilled or leaked from a barrel of excluded wipes at a laundry or handling facility, or are otherwise mismanaged, we would consider this to be disposal and the handling facility managing the solvents would be responsible for cleaning up the spill.

#### b. Request for Comment

EPA seeks comment on the above conditions for handling facilities that manage industrial wipes. EPA also requests comment on whether handling facilities receiving shipments of wipes that do not meet the "no free liquids"

condition should be required, as in the case of some other conditional exclusions, to submit a notification to the state or EPA region implementing RCRA to inform them that the "no free liquids" condition had not been met.

#### 11. Management of Industrial Wipes Containing Co-Contaminants

Today's proposed rule is not intended to override EPA's mixture and derived-from rule regarding contaminants on industrial wipes other than the solvents specified in this proposal. In addition to these solvents, spent industrial wipes from industrial applications may be contaminated with material removed during the industrial process—anything from dirt and grease to listed hazardous wastes. The presence of these co-contaminants may make the industrial wipes subject to the hazardous waste mixture rule (40 CFR 261.3(a)(2)(iv)), which states that a mixture made up of any amount of a nonhazardous solid waste and any amount of a listed hazardous waste is a listed hazardous waste. Therefore, if the wipe contains a listed waste other than the identified solvents, it would still be considered a listed hazardous waste and would no longer be eligible for the conditional exclusion from the definition of hazardous waste being proposed today.

Solvent-contaminated industrial wipes that exhibit a characteristic of hazardous waste due to co-contaminants also are not eligible for the hazardous waste exclusion, unless the characteristic is ignitability. Specifically, EPA is proposing that industrial wipes that would exhibit the characteristics of toxicity, corrosivity, or reactivity because of wastes with which they are co-contaminated would not be eligible for the conditional exclusion. On the other hand, because the industrial wipes are already likely to be ignitable because of the nature of the solvents on them, and because this risk is managed by the conditions of the exclusion from hazardous waste, wipes co-contaminated with ignitable waste would remain eligible for the exclusion if they meet its other conditions.

#### 12. Proposed Conditions for Burning Solvent-Contaminated Industrial Wipes in Combustors

##### a. Proposed Condition

Based on the results of our risk screening analysis discussed in Section VII of this preamble, we are proposing that municipal and other non-hazardous waste combustors be allowed to burn solvent-contaminated industrial wipes that meet the proposed conditions for the exclusion from the definition of

hazardous waste. Facilities managing these wipes would have to ensure that the wipes remain in containers that meet today's proposed transportation condition until they enter the combustion process. Also, if a combustion facility finds wipes with free liquids when it initiates processing of the wipes, like other handlers, it would have the choice of removing the free liquids and managing them as a hazardous waste or closing the container and sending the wipes back to the originating generator. When returning the wipes and liquid to the generator, the combustor would have to transport them in containers that meet the original shipment condition, but would not need to use a hazardous waste manifest.

##### b. Basis for Condition

Allowing combustion of industrial wipes in municipal waste combustors (MWCs) and other non-hazardous waste combustion units, such as commercial and industrial solid waste incinerators (circumstances when the industrial wipes are used as a fuel are included) is a viable alternative for managing conditionally-excluded industrial wipes. First, combustion facility owners/operators should be screening industrial wipes contaminated with hazardous solvents that arrive at their facilities to ensure they do not violate local permit conditions. In addition, these combustors are easily capable of destroying the solvent in contaminated industrial wipes. As described in more detail in Section IV.F.11 of the Technical Background Document, EPA has promulgated revised air emission requirements under the New Source Performance Standards (NSPS) for large new and existing MWCs (facilities managing more than 250 tons of waste per day) and revised NSPS air emission requirements for smaller MWCs (facilities managing less than 250 tons of waste per day). EPA has also promulgated NSPS for commercial and industrial solid waste incinerators (65 FR 75338, December 1, 2000). These NSPS standards for non-hazardous waste combustors provide a level of protection comparable to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for hazardous waste incinerators and should ensure that at least 99.99 percent of the solvent in contaminated industrial wipes is removed or destroyed. Also, as stated in Section VII.C.2., the risk analysis for this proposal indicated that none of the solvents would exceed health benchmarks if the ash were disposed in a landfill.