

used in conjunction with industrial wipes identified as generators of solvent-contaminated wipes. Under the proposed effluent guideline rule, EPA proposed to limit the discharge of certain pollutants from existing and new industrial laundries into U.S. waters and POTWs. The proposed rule applied to "any facility that launders industrial textile items from off site as a business activity."

On August 18, 1999, EPA published a **Federal Register** notice withdrawing its proposed rule for the industrial laundry sector (64 FR 45072). EPA's primary basis for the withdrawal was that indirect discharges from industrial laundries contain very small amounts of toxic pollutants that are not removed by POTWs. Comments on the proposed rule and subsequent data collection resulted in the following conclusions: (1) Laundry discharges are not as toxic as estimated at proposal, (2) POTWs provide better treatment of the toxic pollutants remaining in laundry discharges than estimated at proposal, and (3) many former problems have been resolved by local pretreatment authorities.

EPA concluded that to the extent isolated problem discharges occur, existing pretreatment authority allows local POTWs to respond to problems effectively. Local POTWs have the authority to set local limits for individual indirect dischargers to prevent (1) pass through of pollutants through the POTW into waters of the U.S. and (2) interference both with POTW operations and sludge disposal options. EPA's pass-through analysis for the rulemaking determined that there is not significant pass-through of pollutants from industrial laundries to waters of the U.S. EPA also concluded that removing certain organic pollutants from industrial wipes before they are washed would be a better way to control their presence in effluent discharges.

B. Hazardous Waste Listing Determination for Spent Solvents

Five hazardous waste listings for specific spent solvents have been promulgated by EPA to date: F001, F002, F003, F004, and F005. These listings are found in 40 CFR 261.31. The criteria used by the Agency to determine whether or not a waste is hazardous are explained in the December 31, 1985 **Federal Register** notice (50 FR 53316). This rule also applies to P- and U-listed commercial chemical products that correspond with the F001–F005 listings when those products are spilled and, therefore, become waste.

The December 1985 **Federal Register** notice amended the original solvent

listings to include spent solvent mixtures when the solvent, before it is used, contains 10 percent or more of total listed solvents. In addition, the notice clarified that the listings apply to "spent" solvents—those that are no longer fit for use without being regenerated, reclaimed, or otherwise processed, and clarified that the listings cover only solvents used for their solvent properties (*i.e.*, "to solubilize (dissolve) or mobilize other constituents").

On November 19, 1998, EPA published a determination not to list as hazardous wastes 14 chemicals that are used as solvents. These 14 chemicals are cumene, phenol, isophorone, acetonitrile, furfural, epichlorohydrin, methyl chloride, ethylene dibromide, benzyl chloride, p-dichlorobenzene, 2-methoxyethanol, 2-methoxyethanol acetate, 2-ethoxyethanol acetate, and cyclohexanol. EPA determined that waste solvents containing these chemicals are often hazardous wastes because they exhibit a characteristic under 40 CFR part 261, subpart C, or because they contain other solvent wastes that are listed as hazardous and, therefore, did not believe it was necessary to list them separately. However, in some cases, EPA determined that the solvent waste did not meet the criteria for listing as a hazardous waste. For additional detail regarding the technical basis for the decision, *see* 63 FR 64371, November 19, 1998.

IX. State Authorization

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer their own hazardous waste programs in lieu of the federal program within the state and to issue and enforce hazardous waste permits. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized states have primary enforcement responsibility. The standards and requirements for state authorization are found at 40 CFR part 271.

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a state with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in that state. The federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state, since only the state was authorized to issue RCRA permits.

When new, more stringent Federal requirements were promulgated, the state was obligated to enact equivalent authorities within specified time frames. However, the new Federal requirements did not take effect in an authorized state until the state adopted the federal requirements as state law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by the statute to implement these requirements and prohibitions in authorized states, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA related provisions as state law to retain final authorization, EPA implements the HSWA provisions in authorized states until the states do so.

B. Effect on State Authorizations

The proposed conditional exclusions would not be HSWA regulations. Therefore, the conditional exclusions would not be immediately effective in authorized states. They would be applicable only in those states that do not have final authorization for the base (non-HSWA) portion of the RCRA program.

Authorized states are required to modify their programs only when EPA enacts federal requirements that are more stringent or broader in scope than existing federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the federal program (*see also* 40 CFR 271.1). Therefore, authorized states may, but are not required to, adopt federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous federal regulations. Today's proposed conditional exclusion from the definition of hazardous waste for disposable solvent-contaminated industrial wipes is considered less stringent than the existing federal regulations because it would exclude certain materials now regulated by RCRA subtitle C. Thus, states, except as described below, would not be required to adopt the conditional exclusion from the definition of hazardous waste if the proposal is finalized. However, because EPA believes that today's proposal is a better approach to controlling industrial wipes, the Agency would encourage states to adopt this rule, if promulgated, as soon as possible.

The current federal policy with regard to reusable solvent-contaminated