

the Office of Water in support of the OCSF effluent guidelines development process. We estimated nonwastewater generation rates by applying engineering estimates of wastewater treatment sludge generation rates. Wherever possible, we used facility-specific generation rates, including those provided in non-CBI public comments and non-CBI portions of § 3007 surveys. Note that our estimates of nonwastewater generation rates do not include estimates of waste solids other than wastewater treatment sludges (e.g., filter solids, off-specification products, etc.). Our review of the non-CBI § 3007 data show that these waste quantities are often significantly smaller than wastewater treatment sludge quantities generated at the same facilities. At the same time, our estimated nonwastewater quantities are likely to be somewhat overstated due to our use of conservative assumptions about the amount of sludge generated during wastewater treatment. Consequently, we believe that our estimates of wastewater treatment sludge volumes are large enough to encompass volumes of the other types of solids generated by these facilities.

#### *D. How Are These Wastes Currently Managed?*

We used the following sources to characterize the management of those wastes covered by this listing determination:

- Non-CBI portions of RCRA § 3007 surveys submitted by facilities that are not plaintiffs in the *Magruder* litigation.
- Non-CBI public comments on the 1994 and 1995 proposed listing determinations for this industry.
- State agencies.
- TRI.
- Industry trade associations.
- Facility Web sites.

The non-CBI surveys (available in the docket for today's rule) provided limited historical data about the waste management practices performed by the surveyed facilities, including: Wastewater treatment in tanks, wastewater treatment and/or storage in surface impoundments, discharge of wastewaters to a POTW or under NPDES, solvent recovery, combustion of waste solids/liquids onsite or offsite, fuel blending in industrial furnaces, and disposal of nonwastewaters in nonhazardous landfills onsite or offsite, and disposal of nonwastewaters in hazardous offsite landfills.

We explored a number of more recent publicly available data sources to update the non-CBI survey information on the waste management practices at the operating dyes and/or pigments

production facilities and to understand current management practices at facilities whose survey data were unavailable due to the *Magruder* injunction. We reviewed non-CBI information from public commenters on the December 22, 1994 and July 23, 1999 proposed rules. The commenters claimed that all the onsite land disposal units of concern (nonhazardous waste landfills and surface impoundments) described in the 1992 RCRA § 3007 survey were equipped with protective liners, or had been replaced with tanks, or were closed or undergoing closure. (These comments have been placed in the docket for today's proposal.)

In 2002 we contacted nine State agencies to learn about the existing status of onsite land disposal units located at potential dyes and/or pigments production facilities in those States.<sup>19</sup> None of the State contacts identified any facilities with active onsite land disposal units, with the exception of a single facility slated for closure that was described as operating surface impoundments equipped with double high density polyethylene (HDPE) liners.

Furthermore, we reviewed the most recent available TRI data (reporting year 2000) for onsite and offsite chemical releases of interest at the dyes and/or pigments production facilities. As summarized in the Listing Background Document, the TRI data describes a variety of management practices, including: discharge to POTW or surface water; thermal treatment in offsite incinerators, cement kilns, energy recovery facilities, or fuel blenders; disposal in onsite landfills; disposal in offsite landfills; and shipment to waste brokers or treatment facilities.

We also met with the three primary trade associations (CPMA, ETAD, and IACM) in December of 2002. The trade associations reviewed our compilation of available information regarding onsite waste management practices at known dyes and/or pigments production facilities. (See meeting summaries available in the public docket for today's proposed rule.) Both CPMA and ETAD collected additional information, and provided input on the status of those identified onsite waste management practices (copies available in the public docket for today's proposed rule). ETAD indicated that the only active onsite landfill was at a facility that treats waste by incineration prior to disposal. This is consistent with TRI reporting data, which show that the

only constituents of concern that were disposed of in the onsite landfill were metals (presumably the organic constituents were effectively destroyed). Furthermore, ETAD confirmed that the production of dyes at this facility was a very small fraction of the onsite production processes. Thus, we believe that the use of this one onsite landfill was not representative of management practices for the waste we are evaluating. Based on all of this information, we concluded that all wastes of concern going to landfills are disposed of in offsite landfills. As discussed further in the following sections, we ultimately concluded that all of the landfilled wastes are placed in municipal solid waste landfills.

Consistent with their comments on the 1994 and 1999 proposals, the trade associations asserted that there are currently no active unlined surface impoundments at operating dyes and/or pigments production facilities that receive untreated in-scope wastes, since the previously identified unlined or clay-lined onsite impoundments had been closed. The trade associations were also able to confirm that one production facility treats wastewater in an impoundment with double composite liners (including synthetic materials) and a leachate collection system, and that one other facility with a double-lined impoundment was scheduled to close.

In a subsequent review of some facility websites, we discovered that one facility operates onsite surface impoundments. According to the State regulating authority contacted, these impoundments are clay-lined and are used to store wastewater after treatment and prior to NPDES discharge. This facility is discussed in more detail in section IV.C.

#### *E. What Waste Management Scenarios Did We Select for Risk Assessment Modeling?*

This section summarizes our findings and conclusions concerning current dyes and/or pigments production practices for nonhazardous waste management; the plausible waste management scenarios that we chose to model for the risk assessment; and why we did not model certain management practices.

We chose to model three waste management scenarios based upon our review of the current waste handling practices reported in the publicly available data and the plausibility that these scenarios represent actual practices that are used or could be used for disposal of dyes and/or pigments production wastes. The scenarios that

<sup>19</sup> See "On-Site Waste Management Determination," dated May 20, 2003 in the public docket for details.