

US EPA ARCHIVE DOCUMENT

**ENVIRONMENTAL
PROTECTION AGENCY****40 CFR Parts 260 and 261****[RCRA-2003-0004; FRL-
7587-7]****RIN 2050-AE51****Hazardous Waste
Management System:
Identification and Listing of
Hazardous Waste: Conditional
Exclusions From Hazardous
Waste and Solid Waste for
Solvent-Contaminated
Industrial Wipes****AGENCY:** Environmental
Protection Agency. **ACTION:**
Proposed rule.

(EXCERPT)

IV. Background

EPA is addressing the issue of solvent-contaminated industrial wipes in response to stakeholder concerns that these materials warrant special consideration to correct over-regulation, as well as to ensure more consistency in the regulation of these materials. In addition, EPA sees this proposed rule as encouraging resource conservation and responsible solvent management, as well as removing potential regulatory restrictions to solvent recovery.

Industrial wipes are used by thousands of commercial and industrial facilities throughout the United States to ensure that products and services meet design, performance, or operating standards. Generators often use these wipes in

conjunction with ignitable solvents (any material with a flash point less than 140°F) or listed solvents that, when spent, are hazardous wastes (approximately 30 specific halogenated and non-halogenated solvents are defined by EPA as meeting the criteria for designation as hazardous).

For the purposes of this proposal, we are considering two broad categories of industrial wipes: reusables and disposables. Specific definitions for the different kinds of industrial wipes can be found in Appendix A to this proposal but we have chosen, for simplicity's sake, to call all disposable wipes and reusable shop towels and rags for which this proposed rule would be applicable "industrial wipes," and to distinguish only between those which are going to be laundered, or otherwise cleaned for reuse ("reusables"), and those which will be discarded either by combustion, including use as a fuel, or landfilling ("disposables").

A generator's decision to use disposable or reusable industrial wipes depends primarily on their processes, but sometimes it may be based on their waste management strategy. The process employed is important, for example, because the amount of lint a wipe generates can play a very significant role. Some processes, such as those in electronics and printing applications, cannot tolerate any lint, whereas other processes, such as cleaning auto parts, can tolerate large amounts of lint. Absorbent capacity is also another factor in some tasks, as

is durability of a wipe in both physical strength and in its ability to withstand strong solvents.

As with other commodities, a wipe's life cycle depends on its ultimate disposition. The following description illustrates generally how industrial wipes are used, but is not exhaustive of all possibilities. Some disposable wipes arrive at the generator dry, whereas others are packaged already saturated with solvent and are, therefore, ready for use immediately.

Either way, the generator uses the wipe in its process and then often discards it. These wipes are typically disposed of either in a landfill or by combustion. Alternately, some wipes generally thought of as "disposable" (perhaps if they are made with paper fiber) are used more than once by being put through a solvent removal system. Because this proposal makes a distinction between wipes destined for disposal and destined for reuse, in this case the industrial wipe would be considered "reusable" if it were to be reused, even if it was manufactured for typical one-time use.

Reusable wipes are part of a more systematic handling system. In general, a laundry owns reusable industrial wipes, rents them to generators, and collects them for laundering on a regular basis. Generators receive deliveries of wipes from the laundries, use them, and accumulate used wipes. Drivers, most often employed by the

laundries, pick up the contaminated industrial wipes, replacing them with clean wipes at the same time, and then return the soiled wipes to the laundry. Once at the laundry, the wipes are then counted to assure the laundry is getting back from the generator the same number sent out and, finally, are cleaned before entering the cycle again.

Solvent removal and recovery can happen at various points in the life cycle of both disposables and reusables. Generators may choose to recover solvent either to reduce solvent use and save money, or to reduce environmental impact; generators may generally recover solvents without additional RCRA requirements under the provisions of 40 CFR 261.6(c). In addition, laundries may recover solvents from the wipes that arrive at their facilities to minimize the amount of solvent in their effluent to comply with pretreatment requirements imposed by a Publicly Owned Treatment Works (POTW) or to recover solvent, which can be sold, refined, and reused when it is recovered. One of EPA's goals in this rulemaking is to encourage solvent recovery and recycling in order to minimize the amount of potentially hazardous solvents that are released to the environment and to conserve resources.

A. What Is the Intent of Today's Regulatory Proposal?

A brief history of the current regulatory scheme applicable to solvent-contaminated wipes

lends perspective on how EPA has developed this proposal and explains how EPA has focused its efforts on responding to stakeholder concerns.

Since EPA began to look at solvent-contaminated industrial wipes, we have heard from many interested groups that they are frustrated with the regulatory scheme now applicable to them. After the initial promulgation of the federal hazardous waste regulations, EPA began receiving inquiries from makers and users of disposable wipes, who stated that the regulations were too stringent for industrial wipes based on the risks they pose. Specifically, in 1985, EPA received a petition, pursuant to 40 CFR.260.20, from the Kimberly-Clark Corporation, a manufacturer of disposable industrial wipes, that asked EPA to exclude disposable wipes from the definition of hazardous waste. The petition stated that these materials are over-regulated because the amount of solvent in the wipes is insignificant and because the disposable wipes do not pose a threat to human health and the environment even when disposed of in a municipal solid waste landfill. In 1987, EPA received a second rulemaking petition from the Scott Paper Company that reiterated many of Kimberly-Clark's points and added that the hazardous waste regulations are not necessary because contaminated disposable wipes are handled responsibly, make up just 1% of a generator's waste stream, and could be beneficial to the operation of incinerators

because of their heat value.

In addition to these petitions from the makers of disposable wipes, in 1987, EPA received a rulemaking petition pursuant to 40 CFR 260.20 from the industrial laundries requesting that the solvent-contaminated wipes they wash before returning them to their customers for reuse be excluded from the definition of solid waste. In 2000, the laundries withdrew their petition. Nevertheless, the various rulemaking petitions helped set in motion the development of this proposed rule that addresses the regulatory requirements for both disposable and reusable industrial wipes.

A rule addressing both types of wipes is also important because generators of solvent-contaminated wipes have asked EPA over the years to clarify our position on both disposable and reusable wipes. In the early 1990s, EPA developed a policy that deferred determinations and interpretations regarding regulation of solvent-contaminated industrial wipes to states authorized to implement the federal hazardous waste program or to the EPA region in the cases where a state is not authorized (see 2/14/94 Memo from Michael Shapiro to Waste Management Division Directors Regions I–X in Appendix B). We did this because we felt, at that time, that these questions were best addressed by the regulatory officials responsible for implementing the regulations.

This policy led to the application of different regulatory schemes for both

types of industrial wipes in EPA regions and states. Although the states differ in the details of their policies, in general, they regulate disposable industrial wipes as a hazardous waste when they are contaminated with a solvent that is listed or exhibits a hazardous waste characteristic. On the other hand, many, but not all, states provide regulatory relief for reusable contaminated wipes sent to an industrial laundry or other facility for cleaning and reuse. In about half the cases, this regulatory relief is in the form of an exclusion from the definition of hazardous waste, whereas other states provide an exclusion from the definition of solid waste. The substantive difference between these two approaches is that materials excluded from the definition of solid waste are not considered a waste at all, and are not subject to Federal RCRA regulation, whereas materials excluded from the definition of hazardous waste are considered to be wastes that, when certain conditions are met, do not need to be managed as hazardous wastes.

For reusable industrial wipes, the conditions for the various exclusions vary from state to state, but most require that the containers of wipes not contain free liquids, and require that the laundry discharge to a Publicly Owned Treatment Works (POTW) or be permitted under the Clean Water Act. Some states have established other requirements such as requiring generators to manage contaminated wipes according to the hazardous waste

accumulation standards prior to laundering, and requiring generators to file a one-time notice under the land disposal restriction (LDR) program (*see* 40 CFR part 268) when wipes are sent to be laundered. More detail on the specifics of the states' policies can be found in Chapter 3 of the Technical Background Document to this proposal.

The EPA policy laid out in the Shapiro memo, deferring interpretation to the states or EPA regions, has led to some confusion. The state regulations and policies established on the basis of the Shapiro memo, as described above, differ from state to state. This rule, when finalized, would clarify that EPA believes that full RCRA hazardous waste regulation of these materials is not necessary to protect human health and the environment and, therefore, that management of solvent-contaminated wipes in the manner described in this proposal is appropriate.

In late 1994, EPA's policy regarding solvent-contaminated industrial wipes came under further review as a part of the Common Sense Initiative (CSI) for the printing industry. The CSI sought the insight and input of multiple stakeholders on how to make environmental regulation more easily implementable and/or less costly while still maintaining protection of human health and the environment. The one significant problem posed by RCRA regulations identified by the representatives from the printing

industry was the ambiguity of the rules and regulations applicable to disposable and reusable solvent-contaminated industrial wipes. Specifically, they requested that EPA do three things: (1) Clarify the definition of "treatment" as it pertains to printers wringing solvent from their wipes; (2) examine the potential for over-regulation of disposable industrial wipes; and (3) increase regulatory consistency among the states.

This proposal, therefore, results from discussions during the printing industry CSI, as well as the concerns we have heard from other stakeholders on the Agency's (and states') current policies. We are addressing these concerns, while at the same time encouraging recycling and solvent recovery and ensuring protection of human health and the environment. In summary, the stakeholders' general positions are that generators of contaminated industrial wipes seek clarification of the rules and a more consistent regulatory scheme throughout the states; manufacturers of disposable industrial wipes feel their product is over-regulated by RCRA when levels of risk are taken into consideration leading to inequitable treatment vis-à-vis reusable wipes; and industrial laundries which clean solvent-contaminated wipes believe they are managing a commodity, not solid wastes, and should be considered accordingly. Additional stakeholder groups have also been involved in the development of this proposal. The first is made up of the state

and local governments that have been developing and implementing policies for these materials for the past ten years. They have come to EPA to ask advice on what they should do when conditions established at the state level for an exclusion are not met. The second is worker unions which have also recently expressed interest in RCRA requirements for management of solvent-contaminated industrial wipes because of worker safety concerns.