

Conditional Exclusion from Hazardous Waste and Solid Waste for Solvent Contaminated Industrial Wipes

Notice of Data Availability

74 FR 55163

October 27, 2009

What is this Federal Register About?

This is a notice of data availability (NODA). US EPA is taking comment on their revised risk analysis supporting the proposed revisions to the hazardous waste regulations governing the management of solvent contaminated wipes. Comments are due to US EPA by December 28, 2009.

The revised risk analysis addresses public comments received on the risk screening analysis conducted on EPA's 2003 Federal Register proposal to exclude solvent contaminated wipes from the RCRA definitions of solid and hazardous waste. To address these comments, EPA updated the data, models, and approach used in the risk analysis and then had the product peer reviewed by outside experts. US EPA is taking comment on the revised risk analysis.

In light of the results of the revised risk analysis, US EPA is also taking comment on two additional approaches for managing solvent contaminated wipes and laundry sludge in landfills. The general approaches are:

1. Allow the disposal of solvent¹ contaminated wipes and laundry sludges that do not show a risk into any lined or unlined nonhazardous waste landfill; and

Only allow the disposal of solvent² contaminated wipes and laundry sludges, that show a risk when disposed of into an unlined landfill, into a lined nonhazardous waste landfill; or
2. Establish conditions that allow all solvent-contaminated wipes that contain any solvent except tetrachloroethylene to be sent to a Subtitle D landfill that meets or is subject to the requirements of 40 CFR 258.40 (a)(2) and (b).

The risk analysis using 90th percentile results indicates that tetrachloroethylene has a risk potential in both unlined landfills and composite lined landfills for both solvent contaminated wipes and laundry sludge. Therefore, EPA also asks for comment on whether wipes contaminated with tetrachloroethylene should be ineligible for the exclusion.

What does this rule mean to the regulated community?

This rule would likely affect the following industries: printers, chemical manufacturers, equipment/vehicle repair, electronic manufacturers, publishing, metal fabricating companies and plastics/rubber manufacturers. This rule would not cause any of the regulated community to be newly subject to hazardous waste permitting.

1 Includes solvents : acetone, butanol, cresols (totals), cyclohexanone, dichlorobenzene, 1,2-ethoxyethanol, 2-ethyl acetate, ethyl benzene, isobutanol, methanol, methyl ethyl ketone, methyl isobutyl ketone, and trichloroethane

2 Includes solvents: Benzene, chlorobenzene, methyl chloride, toluene, 1,1,2-trichloroethylene, xylene and tetrachloroethylene

Currently, in Ohio, hazardous solvent contaminated wipes are not considered a solid waste and therefore, are not subject to regulation under the hazardous waste rules if the wipes are washed and reused. So, if the rule is finalized and adopted, it would mean that such hazardous solvent contaminated wipes would be subject to some regulation under the hazardous waste rules.

However, some hazardous solvent contaminated wipes that are disposed of may be subject to less stringent regulation under the proposed exclusion than they are today under the hazardous waste rules. Presently, if disposable wipes are contaminated with a listed hazardous waste solvent or exhibit a characteristic, they are defined as a hazardous waste and must be disposed of according to the hazardous waste rules (e.g., hazardous waste combustion or disposal at a hazardous waste landfill).

What does this mean to DHWM and/or Ohio EPA?

If the proposed rule is finalized, Ohio EPA would be required to change its approach to the way we define hazardous contaminated wipes that are cleaned and reused, and adopt the new rule. This is because our current approach would be less stringent than the new rule and authorized states are obligated to enact requirements that are no less stringent than the federal program.

With regard to the conditional exemption from the definition of hazardous waste for disposable wipes, Ohio EPA would not be required to adopt the exemption if finalized and adopted by U.S. EPA. This is because it is less stringent than the current rules and authorized states are not obligated to adopt less stringent requirements.

This rule would not increase the number of facilities subject to hazardous waste permitting. And, it is unlikely that this rule would increase the universe of generators subject to the hazardous waste rules or affect the way we do business. However, it is another set of regulations targeted at a specific waste stream that inspectors will need to be knowledgeable about.

When would the regulatory changes be effective in Ohio?

The rule changes will be effective in Ohio when Ohio EPA adopts them. U.S. EPA cannot implement and enforce these rules prior to us adopting and being authorized for the changes. It is uncertain at this time when EPA will finalize this rule.

When will Ohio EPA adopt the state version of this rule?

Once US EPA adopts the rule, Ohio EPA will evaluate the rule and determine whether to adopt it or not.

Federal Guidance Document and Federal Register notice:

<http://www.epa.gov/epawaste/hazard/wastetypes/wasteid/solvents/wipes.htm>