

Utility Solid Waste Activities Group

c/o Edison Electric Institute
701 Pennsylvania Avenue, NW
Washington, DC 20004-2696
202-508-5645
www.uswag.org

U S W A G

COMMENTS BY
THE UTILITY SOLID WASTE ACTIVITIES GROUP

PRESENTED BY MR. LAWRENCE H. LIDEN

PUBLIC HEARING
ON PROPOSED CONDITIONAL EXCLUSIONS FROM HAZARDOUS AND SOLID WASTE FOR
SOLVENT-CONTAMINATED INDUSTRIAL WIPES
U.S.E.P.A. EAST BUILDING, ROOM 1153
MARCH 9, 2004
WASHINGTON, D.C.

Good afternoon. My name is Larry Liden and I am a senior environmental scientist for Constellation Generation Group in Baltimore, Maryland. I am here today on behalf of the Utility Solid Waste Activities Group or “USWAG.”

USWAG is an association of approximately 80 electric utility operating companies located throughout the country and their trade associations. Together, USWAG members represent more than 85 percent of the total electric generating capacity of the United States. I serve as the Chairman of USWAG’s Low Volume Waste Committee, which is the technical Committee responsible for most of the RCRA Subtitle C issues affecting the electric utility industry. I appreciate the opportunity to speak today on behalf of USWAG, which is a key industry stakeholder on the important issue of the proposed conditional exclusions for solvent-contaminated wipes.

As background, since its formation in 1978, USWAG has participated in virtually every major RCRA rulemaking to present our members’ views on the need to develop a cost-effective, practical and environmentally protective hazardous waste regulatory program. Of special relevance to this rulemaking, many USWAG member companies generate solvent-contaminated rags and wipes in the course of generating and distributing electricity and natural gas. In many cases, these wipes are subject to hazardous waste regulation. Therefore, USWAG has long been supportive of EPA’s efforts to establish a more streamlined, practical

and cost-effective regulatory program for handling these materials. USWAG believes that EPA's proposal is definitely a step in the right direction. We fully agree with EPA's findings that, from a risk-management perspective, moving forward with the proposed conditional exclusions is fully warranted because management of the wipes in accordance with certain minimal, good management practices, will ensure that they do not pose a substantial hazard to human health and the environment and, as such, do not warrant hazardous waste regulation.

USWAG also supports EPA's attempt to develop management standards that, for the most part, are intended to provide the regulated community with as much flexibility as possible to qualify for the exclusions. We think this type of practical, performance-based approach is absolutely critical in a rulemaking of this nature, where there are literally thousands of generators involved in many different businesses interested in managing their wipes under the conditional exclusions.

While USWAG supports the broad aspects of this important regulatory initiative, there is always room for improvement. I would like to briefly touch on certain issues that we believe should be corrected and or modified in the final rule. USWAG will be following-up on these and other issues in its written comments.

OUR FIRST CONCERN IS A SCOPING ISSUE. In particular, the proposed regulatory text setting forth the scope of the conditional exclusions is *narrower* than the scope of the rules as they are explained in the preamble,

inadvertently excluding an important category of solvent-contaminated wipes from the rule. Specifically, EPA explains in the preamble that the rule will encompass “(1) industrial wipes exhibiting a hazardous characteristic (*i.e.*, ignitability, corrosivity, reactivity, or toxicity) due to use with solvents or (2) industrial wipes contaminated with F001-F005 spent F-listed solvents or comparable P- and U-listed commercial chemical products that are spilled and cleaned up with industrial wipes.” 68 Fed. Reg. at 65589, left hand column (emphasis added). In other words, it is clear that EPA intends for the conditional exclusions to apply not only to industrial wipes contaminated with F-listed solvents or comparable commercial chemical products, but also to *any other* industrial wipe contaminated by a solvent that causes the wipe to exhibit a hazardous characteristic. This makes perfect sense, as there are wipes contaminated with solvents that, while not listed, nonetheless cause the wipes to exhibit a hazardous characteristic, such as ignitability.

The problem, however, is that the proposed regulatory text identifies only wipes contaminated with F-listed solvents or comparable P- or U-listed commercial chemical products as falling within the scope of the rule. See Proposed Regulatory Text at 68 Fed. Reg. at 65618-19. We do not believe this was EPA’s intent and therefore we think it is important for EPA to ensure that the

final regulatory text includes all wipes exhibiting a hazardous characteristic due to contamination by *any* solvent, not just F-listed solvents.

OUR SECOND COMMENT ALSO INVOLVES A SCOPING ISSUE – In particular, we suggest that EPA include within the rule’s scope worker protective clothing – such as gloves, coveralls, and shirts – that, like wipes, also become contaminated with solvents and must be managed as a hazardous waste. Workers in a wide variety of industries use industrial wipes in conjunction with personal protective clothing, such as coveralls and gloves, and this clothing often becomes contaminated with the same solvents that contaminate the wipes. We think the same rationale underlying the proposed exclusion for solvent-contaminated wipes applies to protective clothing contaminated with the exact same solvents – indeed, they are generally cloth-like materials just like wipes and are managed in the same way. Equally important, when this protective clothing becomes contaminated, we are confronted with the same regulatory quagmire under RCRA that led EPA to pursue this rulemaking for solvent-contaminated wipes.

We believe that management of protective clothing in accordance with the proposed management conditions for wipes will ensure that such materials will not pose a hazard to human health and the environment. Therefore, we urge EPA to include solvent-contaminated worker protective clothing, that is contaminated with

the same solvents that contaminate wipes, in the scope of this rulemaking initiative.

MY LAST POINT TODAY CONCERNS ONE OF THE PROPOSED CONDITIONS THAT WE BELIEVE IS UNWORKABLE AND UNNECESSARY AND SHOULD BE DROPPED FROM THE FINAL RULE.

USWAG believes that EPA should abandon the “dry” condition for the disposal of wipes. We already have spoken with many of our members operating in different states across the country and every member consulted thus far agrees that requiring generators to remove excess solvents to achieve a maximum solvent residue of 5 grams of solvent per wipe, or requiring every wipe to go through some type of solvent extraction process, is completely impractical and could effectively undermine the disposal portion of the rule.

We would like to point out to the Agency that literally thousands of generators of all different sizes and from different industries generate solvent-contaminated wipes. When attempting to develop a “one size fits all” approach for such a large and diverse universe of generators – not unlike the scope of RCRA “universal waste” rules – the imposition of an inflexible volumetric limit on *each individual wipe* will simply be too burdensome and impractical for the regulated community, especially for purposes of demonstrating compliance. The costs of

attempting to meet and/or to demonstrate compliance with this condition would simply overwhelm a large percentage of otherwise qualifying generators. Any final wipes management regulatory program containing such compliance uncertainties will cause generators to shy away from this option and will cause wipes that clearly do not warrant full hazardous waste regulation, nonetheless to be managed under Subtitle C. This outcome would be at odds with the very purpose of this rulemaking and would not be good environmental or public policy.

Therefore, USWAG recommends that EPA drop the “dry” condition altogether and replace it with the “no free liquids” condition that EPA proposes to apply to wipes sent for laundering. Using the “no free liquids” condition as the “universal” condition for both disposal and reusable wipes will offer generators a far simpler, less confusing and more practical and “universal” wipes management program. Based on our review of the risk assessment, ensuring that wipes contain “no free liquids” when disposed will ensure that these materials do not pose a risk to human health and the environment.

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On behalf of USWAG, thank you again for the opportunity to participate in this process and to present some of our views on this important rulemaking effort.