
Office of Solid Waste



Environmental Fact Sheet

ADMINISTRATIVE STAY OF WOOD PRESERVING RULE

The Environmental Protection Agency (EPA) has issued an administrative stay that will extend the time allowed wood preservers to construct or repair "drip pads" at their facilities in order to remain within compliance of recently promulgated EPA regulations. The deadline for the upgrade of existing drip pads is extended to February 6, 1992, and to May 6, 1992, for the installation of new drip pads. The stay is available only for wood preservers who demonstrate bona fide efforts to comply with the new rule.

BACKGROUND

On December 6, 1990, EPA promulgated a final rule that lists wastes from wood preserving processes as hazardous, making the management of these wastes subject to regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The rule lists as hazardous three categories of wastes that use chlorophenolic (F032), creosote (F034), and/or inorganic arsenic and chromium (F035) preservatives. The rule also establishes standards for the management of hazardous waste on drip pads, a containment and collection system commonly used in the wood preserving industry.

On December 31, 1990, the American Wood Preservers Institute (AWPI) requested EPA to stay, or extend, the effective date of the rule, contending that the management requirements of the rule cannot be complied with by many wood preserving facilities before the effective date of the rule. Through meetings and correspondence with industry representatives, EPA has determined that approximately 200 facilities out of 600 total are subject to a June 6, 1991, effective date and that approximately 140 of these facilities are unable to comply by that time.

ACTION

EPA has taken action that will allow sufficient time for compliance with specific drip pad requirements at wood preserving facilities while

maintaining the environmental protectiveness of the rule.

The treatment, storage, and disposal of wastes removed from the facilities' process areas, including soil contaminated with these wastes, will still be subject to the deadlines and management standards established by the final rule.

The effect of the stay is that activities that would otherwise constitute disposal of F032, F034, and F035 wastes into the process areas, or onto existing drip pads in these areas, are not covered by the respective waste listings during the duration of the stay.

The stay will apply only to those facilities that intend to comply with the drip pad management standards and that are willing to make *bona fide* efforts to do so during the stay period. By August 6, 1991, all wood preserving facilities affected by the stay must notify EPA of their intent to follow one of the following courses of action: upgrade an existing drip pad by February 6, 1992; install a new pad by May 6, 1992; operate with an existing pad in compliance with the management standards; or cease operations by August 7, 1991.

On November 6, 1991, facilities intending to comply with the drip pad standards must submit a second notification providing evidence that they have an estimate of the cost of compliance and evidence of adequate financing. Facilities unable to make this demonstration would have to cease operation by November 7, 1991, unless authorization for continued operation (set forth in a compliance order) is provided by EPA or the applicable state.

EPA is also staying, until further administrative action, certain management standards for drip pads and the applicability of the listings to wastewaters that do not contact process contaminants. In addition, the listing description for F032 will not include past users of chlorophenolic formulations who currently use creosote or inorganic arsenic/chromium formulations.

CONTACT

For further information, or to order a copy of the *Federal Register* notice, please call the RCRA Hotline Monday through Friday, 8:30 a.m. to 7:30 p.m., EST. The national toll-free number is (800) 424-9346; for the hearing impaired, it is (TDD) (800) 553-7672. In Washington, D.C., the number is (703) 920-9810 or TDD (703) 486-3323. Or write to: RCRA Information Center, Office of Solid Waste (OS-305), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PARTS 261, 264, 265

HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES; and INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

AGENCY: Environmental Protection Agency

ACTION: Administrative Stay

SUMMARY: The Environmental Protection Agency is today announcing an administrative stay of the hazardous waste listings F032, F034, and F035 in process areas at wood preserving plants. The primary effect of the stay is to conditionally extend the effective date of the drip pad management standards to February 6, 1992, for the upgrade of existing drip pads and to May 6, 1992, for the installation of new drip pads. Certain management standards for drip pads, the inclusion of past users of chlorophenolic formulations in the listing description for certain F032 wastes, and the scope of wastewaters with respect to waters that do not come into contact with preservative are also being stayed.

DATES: Effective Date: [insert date of signature]. For reporting deadlines, see section VI of this preamble.

ADDRESSES: The official record for this administrative stay is

identified as Docket Number F-91-WPWS-FFFFF and is located in the EPA RCRA Docket, room M2427, 401 M Street, SW, Washington, DC 20460. The public must make an appointment in order to review docket materials by calling (202) 475-9327. The docket is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public may copy material from any regulatory docket at a cost of \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Edward L. Freedman, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3657.

SUPPLEMENTARY INFORMATION: The contents of today's notice are listed in the following outline:

- I. Background
- II. Appropriate Effective Date for Drip Pad Standards
- III. Substantive Standards for Drip Pads
- IV. Pentachlorophenol Cross-Contamination
- V. Scope of the Wastewater Listing
- VI. Agency Action
- VII. Effects On State Authorization
- VIII. Paperwork Reduction Act

I. BACKGROUND

On December 6, 1990, EPA promulgated regulations listing as hazardous various wastes generated from wood preserving processes that use chlorophenolic, creosote, and/or inorganic (arsenical and chromium) preservatives (55 FR 50450 (Dec. 6, 1990), adding hazardous wastes F032, F034, and F035 to the lists of hazardous wastes in 40 CFR § 261.31). In addition, and of particular relevance for the present notice, the Agency promulgated standards for a new type of waste management unit, a drip pad (55 FR 50484-89, adding a new Subpart W to Part 264 and 265 of the regulations). Drip pads receive drippage from treated wood immediately after the wood is removed from the treatment vessel. The pads are eligible for 90-day generator accumulation status under § 262.34 provided they are designed and operated in compliance with the Subpart W standards (Amended § 262.34 (a) (2) , 55 FR 50483-84). The standards vary somewhat for new and existing drip pads.

Because the rule was promulgated partially pursuant to the 1984 amendments and partially pursuant to preexisting authorities, the requirements take effect at different times in different states. As a HSWA rule, the F032 listing of various residues from wood preserving processes using, or that previously used, chlorophenolic formulations takes effect on June 6, 1991 in authorized and unauthorized States (55 FR 59469-70 and RCRA section 3001 (e)). Drip pads used in connection with F032 wastes are likewise subject to the Subpart W standards on June 6 in all States

(Id. at 50470). The F034 and F035 listings and related management standards do not take effect immediately in authorized states since they were not adopted pursuant to HSWA (Id.).

II. APPROPRIATE EFFECTIVE DATE FOR DRIP PAD STANDARDS

The first issue discussed in the present notice concerns the appropriate effective date for the drip pad standards. After the rule was promulgated, the American Wood Preservers Institute (AWPI), representing a significant segment of the wood preserving industry, conducted a survey to determine its members' ability to comply with the drip pad standards on June 6. Although results are somewhat fragmentary, it appears that a significant number of facilities subject to the June 6 date are unable to comply at that time. Extrapolation of the survey results in an estimate of 200 wood preserving facilities subject to the June 6 deadline (i.e. those managing F032 wastes, those in unauthorized states, and those in states authorized for the wood preserving rule), of which approximately 140 (70%) report that they are unable to comply on June 6.

The principal reasons cited for inability to comply are: 1) difficulties in obtaining financing; 2) difficulties in obtaining a professional engineer's certification of compliance (see § 265.441 (a), 55 FR 50487); and 3) difficulties in coordinating pad installation or upgrading activities with ongoing corrective action at the facility. In addition, there has been some discussion of

difficulties in some climates of constructing pads during very cold or rainy seasons.

EPA has examined this information carefully, and conducted its own independent inquiries and site visits. The Agency's conclusion is that, although a significant percentage of facilities can comply with the June 6 effective date, a significant portion are unable to meet that date for legitimate reasons. In this regard, the Agency notes that it has phased in new design requirements for other types of regulated units to accommodate similar difficulties to those now facing certain wood preservers. See § 265.193 (a) (phasing in secondary containment requirements for hazardous waste tanks); § 265.90 (a) (groundwater monitoring requirements effective 18 months after promulgation date); 47 FR at 16555 (April 16, 1982) (phasing in certain financial responsibility requirements). The Agency notes further that the issue of drip pad compliance effective date did not receive a great deal of attention during the rulemaking because the main focus of the industry's rulemaking comments challenged the need for listing these wastes at all, and also because the court-ordered November 15, 1990, promulgation date necessitated an expedited Agency review schedule.

III. SUBSTANTIVE STANDARDS FOR DRIP PADS

AWPI and other affected industry parties also questioned the appropriateness of requiring new drip pads to be sealed with an impermeable coating and to have liners and leak detection systems

as well. In their view, this level of control is either redundant or unnecessary. In addition, they questioned the technical feasibility of finding an impermeable sealer for some arsenical solutions.

IV. PENTACHLOROPHENOL CROSS-CONTAMINATION

A further issue that concerns the wood preserving industry is the scope of the F032 listing (for wastes from processes using pentachlorophenol as a preservative). As promulgated, this listing includes wastes generated by creosote or CCA plants that previously used chlorophenolic formulations. Although the rules provide a procedure whereby an individual facility can demonstrate that cross-contamination is no longer occurring (in which case the wastes from the process would still be hazardous but classified under either the F034 or F035 waste codes), the industry argues that these procedures are potentially unnecessary and impracticable. Furthermore, by including potentially cross-contaminated wastes within the scope of the F032 listing, more facilities become subject to the June 6 deadline, since the F032 listing takes effect on that date in both authorized and unauthorized states since it is a HSWA rule. This increases the number of wood preserving facilities potentially unable to comply with the drip pad standards on that date.

V. SCOPE OF THE WASTEWATER LISTINGS

The wood preserving industry further questioned the scope of the listing of wood preserving wastewaters. Among other points, they contend that certain wastewaters are not hazardous because the wastewaters do not come in contact with process contaminants, and maintain further that processes can be reconfigured to avoid contamination of other water, such as rainwater. Because the listing applies to all wastewaters, however, these efforts would be without point because all the wastewaters would remain hazardous (unless and until delisted).

VI. AGENCY ACTION

A. EPA has determined to issue an administrative stay of the applicability of the F032, F034 and F035 listings to the process area receiving drippage of these wastes, i.e. the area potentially covered by the subpart W drip pad standards. As explained below, this stay is available only for wood preserving facilities meeting certain conditions intended to limit the extension to those facilities making bona fide efforts to comply with the rule. For existing drip pads, the stay will remain in effect until February 6, 1992 and for new drip pads, the stay will remain in effect until May 6, 1992.

The Agency has selected these dates for the following reasons. The Agency believes that two months of time beyond the June 6, 1991, effective date is necessary for wood preserving plants to

determine and report their definite intentions as to compliance with the rule. The Agency believes that up to three additional months will be required for all facilities intending to come into compliance to fully investigate and obtain the necessary funding required to retrofit existing pads and to construct new pads. The retrofitting of existing drip pads will require less time than the construction of new drip pads. Thus, the Agency has allowed up to three additional months for the retrofitting of existing drip pads and up to six additional months for the construction of new drip pads. These estimates are consistent with information supplied by the wood preserving industry. Based on these estimates, the Agency feels that final compliance dates of February 6, 1992, and May 6, 1992, are reasonable compliance dates for plants with existing drip pads and newly constructed drip pads, respectively.

The effect of the administrative stay is that activities that would otherwise constitute disposal of F032, F034, or F035 wastes into the process area, or onto existing drip pads in process areas, are not covered by the respective wood preservative waste listings during the duration of the stay. The stay is limited to the process area, however. Thus, the listings are not stayed for F032, F034, or F035 wastes, including soil contaminated with these wastes, that are removed from this area. (During the term of the administrative stay, such removal would be considered generation of an F032, F034, or F035 waste. 53 FR 31147-49 (August 17, 1988)).

As noted above, the Agency intends (and AWPI expressly agrees)

that this limited stay should apply only to those facilities that intend to comply with the Subpart W standards and that are willing to make bona fide efforts to do so during the stay period. It obviously makes no sense to extend the rule's compliance date for facilities simply desiring to continue operations that are environmentally unsound (such as operating without a drip pad or with defective pads) until they are forced to close. Consequently, the Agency is making the stay applicable only to those facilities that comply with the conditions described below. Failure to comply with these conditions means that the listings remain in effect, in which case process area drippage can only occur lawfully for facilities with compliant drip pads, or for facilities in compliance with requirements for land disposal of hazardous waste (or other units meeting applicable technical standards). It should be noted that all portions of the rule that are not stayed remain in effect. For example, the stay does not affect the March 6, 1991, 3010 notification deadline for generators and TSDs handling F034 and F035 in unauthorized states or F032 in all states. Thus, those generators and TSDs that were managing the forementioned wastes, that had not previously notified the Agency of hazardous waste activity, and that did not submit a 3010 notification to the Agency by the deadline are in violation of that requirement.

First, by August 6, 1991, all wood preserving facilities affected by the stay (i.e. those otherwise subject to the June 6 compliance date) must notify either the Agency's applicable Regional Office or an authorized state of their intention to follow

one of four courses of action: 1) to upgrade an existing drip pad by February 6, 1992; 2) to install a new drip pad by May 6, 1992; 3) the facility already has installed a drip pad in compliance with Subpart W; or 4) the facility will cease operation by August 7. A facility notifying that it intends to cease operation must cease operation by August 7 or its drippage in the process area becomes subject to all applicable subtitle C regulations. The drip pads already installed in compliance with Subpart W are not subject to regulation until February 6, 1992, and owners and operators of such pads need not submit any further notification to the Agency other than the August 6 notice. Facilities notifying that they intend to comply by February 6, 1992 or May 6, 1992 must further state that they will use best efforts to minimize drippage that occurs during the duration of the stay.

Second, on November 6, 1991, facilities intending to comply with drip pad standards must submit a second notification providing evidence that they are making good faith efforts to comply and have a reasonable expectation of doing so. To make this showing, the notification must include an estimate of the cost of compliance, and evidence of financing to pay this expense. Evidence could take the form of an agreement with a bank or other lending institution, or an escrow account dedicated to paying for installation of drip pads.

Persons unable to make this demonstration would have to cease operation by November 7, 1991. (The scheme is somewhat similar to the statutory loss of interim status provisions which required

certain facilities to certify that the facility was in compliance with financial responsibility and groundwater monitoring requirements by a particular date or to cease operation (RCRA section 3005 (e) (2))). EPA repeats that the rule remains in effect for persons who do not comply with these conditions. EPA or the state, as appropriate, may in its discretion, allow a facility to operate beyond the November 6, 1991, deadline, provided that (1) the respondent demonstrates that it cannot meet the November 6, 1991, deadline because of circumstances entirely beyond its control, despite its best efforts to comply (e.g., its impossibility of performance is due to corrective action being undertaken at the wood preserving facility pursuant to a federal or state order or permit), and (2) such authorization to operate is set forth in an enforceable compliance order.

B. EPA has also decided to issue a stay of the requirement that new drip pads be sealed, coated, or covered with an impermeable material (§ 264.572 (a) (4), § 265.443 (a) (4)). The Agency is taking this step because we are now convinced that this requirement is unnecessary for pads constructed with a liner and leak detection system provided the pad is maintained in good condition with actions taken to remedy any cracks that may develop. The liner would provide secondary containment, thus fulfilling the Agency's object in developing management standards for drip pads (55 FR at 50453). We consequently are staying this requirement. Thus, on May 6, 1992 (i.e. the date when new pads must comply with the regulatory standards), new pads will not be required to be

sealed, coated, or covered with an impermeable material. EPA also intends to initiate rulemaking to determine whether to make this a permanent regulatory change.

EPA intends, however, that this requirement remain in place for existing pads, once those pads are required to comply with the regulatory standards, because few (if any) existing pads are known to have liner and leak detection systems that comply with the Subpart W standards. Thus, on February 6, 1992, existing pads must be sealed, coated, or covered with an impermeable surface. Because existing pads need not have liner and leak detection systems (§ 264.571, 265.441) the requirement of an impermeable surface is necessary to provide secondary containment. (The Agency has determined that commercially available sealants exist that would be appropriate for use at the pH of preservative solutions used by the wood preserving industry.)

C. The Agency is also staying the portion of the rule that included wastes from plants generating F034 or F035 wastes that previously used chlorophenolic formulations as within the scope of the F032 listing. Upon reflection, the Agency realizes that structuring the rule in this way is not serving any useful environmental purpose. Wastes from creosote or inorganic arsenical wood preserving processes that previously used chlorophenolics are already classified as hazardous under the F034 or F035 listings. The regulatory standards for F032, F034, and F035 wastes are identical, so that the F032 listing does not carry with it a stricter regulatory regime (55 FR at 50467). The only immediate

regulatory consequence of the F032 listing for these plants is to make more facilities subject to the June 6 compliance date. As explained above in the discussion on compliance dates for drip pads, this consequence has negative features because many facilities that can comply with the drip pad standards with some additional time appear unable to do so by June 6 for legitimate reasons. Since the F032 listing does not result in different substantive regulation for the wastes other than the timing of the effective date, EPA has decided to stay the scope of the F032 listing so that it does not cover wastes from creosote or inorganic arsenical plants that previously used chlorophenolic preservatives as long as any wastes from that plant are regulated as F034 or F035 wastes. EPA also intends to initiate rulemaking to determine whether to permanently amend the F032 listing.

The Agency notes, however, that the issue of chlorophenolic cross-contamination will be relevant when EPA establishes treatment standards for the F032, F034 and F035 wastes under the land disposal restrictions program. The fact that a waste may be classified as F034/F035 rather than F032 does not prevent the Agency from promulgating treatment standards for the chlorophenolic formulation, and the various dioxins and furans that may be present in these wastes as a result of equipment cross-contamination. Thus, the Agency anticipates including standards for these constituents in all of the treatment standards for the listed wood preserving wastes.

D. Finally, EPA has decided to stay the listing of

wastewaters so that the listing applies only to wastewaters that have come in contact with process contaminants, i.e. wood preserving solutions, spent preservatives, and the like. It is these process contaminants that make the wastewater hazardous, and the Agency did not intend for the listing to apply to uncontaminated wastewaters (see 56 FR 21955, May 13, 1991). Thus, if wastewaters are kept uncontaminated, they will not be (and should not) be covered by the listing. EPA intends to initiate rulemaking to determine whether to make this a permanent regulatory change.

Any wood preserver claiming that wastewater has not come in contact with process contaminants would have the burden of proving that this is the case. This is because the details of plant operation, and in particular wastewater management, are within the special knowledge of the wood preserving facility. See 50 FR at 643 (January 4, 1985) and cases there cited. The best (and perhaps only) way of showing no contamination would be to segregate uncontaminated waters (for example, non-contact cooling water) from normal process wastes and process areas. Such segregation also serves a useful waste minimization function by reducing the total volume of contaminated wastewater. Thus, the Agency views today's action as creating an incentive for waste minimization. Conversely, however, the Agency notes that if initially uncontaminated wastewater is mixed with contaminated wastewater (as in a centralized wastewater treatment system) or with process contaminants (such as rainwater falling on a process area drip

pad), then the entire volume of wastewater is hazardous because of the mixture rule.

E. EPA is issuing this administrative stay pursuant to 5 U.S.C. § 705 which provides that an agency may postpone the effective date of action taken by it when justice so requires, pending judicial review.¹ The Agency believes that this standard is satisfied here because it appears to be legitimately infeasible for a significant number of wood preserving facilities to comply with the drip pad standards by June 6.

In addition, the sealant requirement for new drip pads appears unnecessary and could add to the time needed to comply with drip pad standards. Inclusion of potentially cross-contaminated wastes within the F032 listing does not serve any direct regulatory purpose (given the uniform regulatory standards for F032, F034, and F035 wastes), and causes more facilities to be subject to the June 6 effective date with which they may be unable to comply. Inclusion of uncontaminated wastewaters within the scope of the listing is not necessary to further any legitimate environmental objective, and so should legitimately be stayed.

At the same time, the administrative stay is structured so as to prevent environmental abuses from uncontrolled drippage during the pendency of the stay, and is further structured to be available only to facilities making bona fide efforts to comply. A significant number of wood preservers thus could be harmed

¹AWPI has filed a petition for review of the December 6 rule.

irreparably should the drip pad standards take effect on June 6.

The conditions on the administrative stay, plus structuring the duration of the stay to allow time for clean-up of drippage contamination in existing process areas, also assures that the stay will be in the public interest. The Agency consequently finds that issuing this stay is in the interests of justice.²

VII. EFFECTS ON STATE AUTHORIZATION

The effects of the administrative stay depend largely on whether the facility is managing a wood preserving waste identified by a HSWA-based listing (i.e., the F032 wastes), as opposed to the

² Although the Agency does not regard today's action as a rule, were it to be viewed as a rule the Agency believes that there is good cause for issuing it without prior notice and opportunity for comment and for making it immediately effective. This is borne out by the pending compliance date and infeasibility of compliance for a substantial number of facilities, and means of conditioning the stay to assure continued protection of human health and the environment. In addition, EPA has sought and obtained comment on this action not only from the wood preserving industry but from members of the environmental community and the waste treatment industry as well. There also was opportunity to comment on all of these issues during the rulemaking itself, so that further comment may be unnecessary.

newly listed wastes (F034 and F035) for which the listing determinations were based on pre-HSWA authority.

As explained earlier, EPA considers that both the F032 listing and the new Subpart W drip pad standards (when applied

to the management of F032 wastes) are based on HSWA authority. As EPA explained in the December 6, 1990 notice (see 55 FR 50469), the HSWA-based F032 listing and related Subpart W facility standards take effect simultaneously in all States, regardless of their authorization status. With respect to these HSWA-based requirements, the effect of the administrative stay is to defer in all States EPA's implementation and enforcement of these requirements beyond June 6, 1991, in accordance with the administrative stay schedule. According to the schedule for state program revisions contained in 40 CFR 271.21(e), the December 6, 1990 Wood Preservation Rule is subject to a July 1, 1992 deadline (July 1, 1993 if a statutory change is required) for States to modify their hazardous waste programs and thereafter seek approval from EPA for the program revision. Since the administrative stay would not extend any effective dates beyond May 6, 1992, EPA considers it very unlikely that any State will have received approval from EPA to implement the December 6, 1990 regulation under RCRA authority with earlier or more stringent effective dates than those set out in this stay. Nevertheless, States may modify their hazardous waste programs to adopt the Wood Preservative Rule in the interim. While EPA encourages States to follow the deferred

effective dates announced in this stay, states may elect to implement the Rule with effective dates earlier than those imposed under this stay, as a matter of State law.

In the case of facilities managing F034 and F035 wastes, the effect of the stay depends on whether the facility is located in an authorized or unauthorized States. The F034 and F035 listing determinations were promulgated pursuant to pre-HSWA authority, and EPA considers the Subpart W drip pad standards that govern the management of F034 and F035 wood preserving wastes to also be based on pre-HSWA authority. According to the December 6, 1990 Rule notice, these wastes listings and facility standards would have been effective on June 6, 1991 only in those states that are not authorized for any part of RCRA. EPA implements the RCRA program in unauthorized States, and the effect of this stay will be to defer EPA's implementation and enforcement of the Wood preserving Rule's F034 and F035 provisions in accordance with the administrative stay schedule.

In authorized States, the pre-HSWA basis for the F034 and F035 listings (and related Subpart W drip pad standards) means that these requirements cannot be implemented as RCRA requirements until the State has adopted the necessary program modifications and obtained approval for the necessary program modifications and obtained approval for the revisions from EPA. The modification schedule in 40 CFR section 271.20(e) requires that States modify their programs by July 1, 1992 (July 1, 1993 if a statutory change is required) to adopt this regulation and thereafter seek approval

of the revisions from EPA. Since the stay does not extend any effective dates beyond May 6, 1992, it is unlikely that States will become authorized for the F034 and F035 listings and facility standards before the deferred effective dates in the stay have already passed. However, facilities in both authorized states and unauthorized states should understand that states may adopt and implement wood preserving regulations as a matter of state law, prior to obtaining EPA approval. While EPA strongly encourages States to follow the deferred effective dates announced in this stay, States may elect to adopt wood preserving waste regulations with more stringent (e.g., earlier) effective dates than those announced in this administrative stay.

VIII. PAPERWORK REDUCTION ACT


The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The public reporting burden for the wood preserving rule (as published in the *Federal Register* on December 6, 1990), inclusive of the reporting requirements in this administrative stay, is estimated to result in a total of 271 hours per facility per year. The burden prior to this administrative stay was estimated to average 272 hours per facility per year.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for

U.S. Environmental Protection Agency, 401 M St., S.W., Washington,
DC 20460; and to the Office of Information and Regulatory Affairs,
Office of Management and Budget, Washington, DC 20503 marked
"Attention: Desk Officer for EPA."

Date:

6/5/91



William K. Reilly
Administrator

Acme

PART 261 -- IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.31 is amended by revising the F032, F034, and F035 listings to read as follows:

* * * * *

Industry and EPA Hazardous Waste No.	Hazardous Waste	Hazard Code
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F032**	Wastewaters, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with § 261.35 of this chapter and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (NOTE: The listing of wastewaters that have not come into contact with process contaminants is stayed administratively. The listing for plants that have previously used chlorophenolic formulations is	(T)
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administratively stayed whenever these wastes are covered by the F034 or F035 listings. These stays will remain in effect until further administrative action is taken.)

F034**

Wastewaters, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (NOTE: The listing of wastewaters that have not come into contact with process contaminants is stayed administratively. The stay will remain in effect until further administrative action is taken.)

(T)

F035**

Wastewaters, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (NOTE: The listing of wastewaters that have not come into contact with process contaminants is stayed administratively. The stay will remain in effect until further administrative action is taken.)

(T)

** The F032, F034, and F035 listings are administratively stayed with respect to the process area receiving drippage of these wastes provided persons desiring to continue operating notify

EPA by August 6, 1991 of their intent to upgrade or install drip pads, and by November 6, 1991 provide evidence to EPA that they have adequate financing to pay for drip pad upgrades or installation, as provided in the administrative stay. The stay of the listings will remain in effect until February 6, 1992 for existing drip pads and until May 6, 1992 for new drip pads.

PART 264 -- STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. Section 264.572 is amended by revising paragraph (a)(4) to read as follows:

(a) * * *

(4) Be impermeable, e.g., concrete pads must be sealed, coated, or covered with an impermeable material such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system (NOTE: The requirement that new drip pads be impermeable, e.g., that new drip pads be sealed, coated, or covered with an impermeable material is administratively stayed. The stay will remain in effect until further administrative action is taken.)

PART 265 -- INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

4. Section 265.443 is amended by revising paragraph (a)(4)

to read as follows:

(a) * * *

(4) Be impermeable, e.g., concrete pads must be sealed, coated, or covered with an impermeable material such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system (NOTE: The requirement that new drip pads be impermeable, e.g., that new drip pads be sealed, coated, or covered with an impermeable material is administratively stayed. The stay will remain in effect until further administrative action is taken.)