



**DIRECTIVE NUMBER:** 9476.04(84)

**TITLE:** Closure Issues Related to Wood Preserving Plants

**APPROVAL DATE:** 8-7-84

**EFFECTIVE DATE:** 8-7-84

**ORIGINATING OFFICE:** Office of Solid Waste

☒ **FINAL**

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**STATUS**

- [ ] A- Pending OMB approval
- [ ] B- Pending AA-OSWER approval
- [ ] C- For review &/or comment
- [ ] D- In development or circulating

**REFERENCE (other documents):** headquarters

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Kxy Words: Wood Preserving, Closure

Regulations: 40 CFR 264.113(b), 264.272, 270.72

Subject: Closure Issues Related to Wood Preserving Plants

Addressee: James H. Scarbrough, Chief, Residuals Management Branch,  
Region IV

Originator: John H. Skinner, Director, Office of Solid Waste

Source Doc: #9476.04(84)

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Summary:

A Regional Administrator can grant an extension to the time of 180 days allowed for closure as specified in §264.113(b) for only two reasons: 1) definition of necessity, if it takes longer than 180 days to perform closure; or 2) if a new owner/operator will recommence operations at a site, making closure incompatible with continued operation. The first criterion of necessity may apply to wood preservation plants. However, if the owner/operator can use a proven technology to complete closure within the 180-day period, an extension may not be justified. In no case can closure take longer than three years.

Closure techniques should be based on proven techniques and not concepts still in the research and development phase. An owner/operator must prove the effectiveness of any technique to be used at closure in the permit application.

The addition or creation of new processes that an interim status facility owner/operator wants to use at closure must be allowable under §270.72 as changes to interim status. If the processes cannot be justified under §270.72, the owner/operator must obtain a RCRA permit before s/he can use the new technology, regardless of whether the owner/operator will use it during the facility's operating life or at closure. If the facility has a permit, process changes or additions are not allowed as minor modifications. Therefore, the new processes would require a RCRA permit.



AUG 07 1984

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Closure Issues Related to Wood Preserving Plants,

FROM: John H. Skinner, Director  
Office of Solid Waste

TO: James H. Scarbrough, Chief  
Residuals Management Branch, Region IV

In your June 26, 1984 memorandum you posed three questions regarding closure activities and the use of unproven technologies for closure at wood preserving plants. Several questions regarding the definition of K001 hazardous wastes generated by these facilities were also raised; these latter questions have been partly answered in my July 25, 1984 memorandum.<sup>1/</sup>

First, the maximum time allowed for closure after final receipt of waste is 180 days as specified in §264.113(b) unless the Regional Administrator grants the owner or operator an extension. The grounds for extensions are strictly limited to instances when: (1) of necessity, it takes longer than 180 days to perform closure, or (2) a new owner or operator will recommence operations at the site and closure would be incompatible with continued operation. It seems that the first criteria could be argued in the case of wood preservation plants. However, if the owner or operator could use a proven technology to complete closure within the 180 day period, an extension may not be justified. In addition, I agree with your assessment on this issue and reaffirm the guidance in the preamble to the May 19, 1980 regulations: "A variance procedure will allow a longer period, where it can be justified, although in no case may closure take more than three years."

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<sup>1/</sup> A question was raised regarding contaminated rainwater run-off from treated wood storage areas. We hope to resolve this issue along with the regulatory status of spray irrigation fields in conjunction with EGD. We expect to get back to you on these points in the near future.

Second, we agree with you that closure techniques should be based on proven techniques and not conceptual until in the R and D stage. For example, if the owner or operator wishes to use land spreading of hazardous waste at closure, he must demonstrate the effectiveness of the technique in his permit application in accordance with Subpart M (land treatment) in §264.272.2/ In this instance, more details are required to determine the specific nature of the technology. However, if an interim status facility wishes to add a land treatment technique, these new processes must be allowable under §270.72 as changes to interim status. If these processes cannot be justified under §270.72, a RCRA permit is required before they can be used at the facility regardless of whether it is to be used during the operating life or at closure.

Third, the addition or creation of new processes at the facility during interim status may be allowable under §270.72. If the facility is permitted, however, process changes are not allowed as minor modifications; therefore, the new process would require a RCRA permit.

I hope this memorandum addresses your concerns. Please contact Carole Ansheles at 382-4761 if you have any further questions.

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2/ As explained in my July 25, 1984 memorandum, we are currently investigating the regulatory status of spray irrigation technologies to determine if they meet the definition of a land treatment unit, a surface impoundment, or a landfill.