

PPC 9477.1986(13)

CORPORATE GUARANTEE FOR LIABILITY COVERAGE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

August 15, 1986

Mr. C.T. Howlett, Jr.
Director, Government Affairs
Environment, Health and Chemical Safety
Georgia-Pacific Corporation
International Square
1785 Eye Street, N.W.
Washington, D.C. 20006

Dear Mr. Howlett:

I am responding to your letter of August 4, 1986, to Mr. George Garland, since the Office of Solid Waste has been reorganized. The specific questions you raised are addressed below:

QUESTION: Do these new provisions in 40 CFR Parts 264 and 265 automatically take effect in California on September 9, 1986?

The corporate guarantee rule that appeared in the Federal Register on July 11, 1986 (51 FR 25350) is an interim final rule. Comments were requested from the regulated community on the "form" of the guarantee. If the comments do not show a need to modify the rule, it will become effective for the Federal RCRA program on September 9, 1986. Compliance with any applicable California State liability requirements may also be necessary; their regulations may differ from the corresponding Federal rules on third party liability. The key individuals from California you mentioned in your letter would be able to offer you better guidance in the area of state liability requirements.

An additional requirement is receipt by EPA of a written statement or statements, as the case may be, from the Attorney General(s) or insurance commissioner(s) of the State in which the guarantor is incorporated and the State(s) in which the facility(ies) covered by the guarantee is (are) located, saying that the corporate guarantee executed as described in sections 264.147, 265.147 and 264.151(h)(2) is a legally valid and enforceable obligation in that State.

Although your question concerned a Georgia Pacific Resin facility in Ukiah, California, other facilities owned or operated by your company in States with RCRA authorized programs may not have the opportunity to benefit from the Federal corporate guarantee rule. Authorized states will not be required to modify

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their programs because these standards, promulgated on July 11, 1986, are considered to be less stringent than the existing Federal requirements.

QUESTION: Have you also obtained any response from the California Attorney General about the legality of the approved guaranty under California's insurance law?

As yet, we have not received any response from either the California or the Georgia (State of incorporation) State Attorney General.

I trust that my answers have been helpful. If you have any further questions, please call Carlos Lago on (202) 382-4780.

Sincerely,

Carole J. Ansheles, Chief
Closure/Financial Responsibility
Section (WH-563A)
Permits and State Programs Division

cc: George Garland

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