

PPC 9451.1996(03)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 1, 1996

MEMORANDUM

SUBJECT: Resolution of RCRA Issues Relating to the Wood
Preserving Industry

FROM: David Bussard, Director
Hazardous Waste Identification Division

TO: John B. Rasnic, Director
Manufacturing, Energy and Transportation Division
Office of Compliance

In your February 29th memo to me, you raised a couple of issues that you wanted us to look into. The first of these was a question as to whether the current regulations support a wood preserving facility's claim that a drip pad sump is part of the facility's wastewater treatment system and is therefore exempt from certain RCRA requirements, even though the wood preserving regulations require that the sump meet subpart J tank standards.

The answer is yes, depending of course on the particular facts, drip pad sumps may generally satisfy the wastewater treatment unit exemption. The requirement that wood preservers must meet subpart J standards does not trump the wastewater treatment unit exemption. I have attached a memo from Tim Sullivan in the Region IX office that I think does a very good job of explaining this.

You also asked whether, should we end up excluding recycled in-process wastewaters at wood preserving facilities from the definition of solid waste, it would be possible that a previously regulated facility could become a conditionally exempt small quantity generator (CESQG); and, if so, would that facility need to comply with RCRA requirements specifically crafted for wood preservers.

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First, it is important to point out that if any facility meets the conditions set forth in the section defining and explaining CESQG status (261.5), it is considered to be conditionally exempt from the definition of solid waste (and therefore hazardous waste) and is thus subject to very few requirements under RCRA. In the case of the wood preserving industry, they would be conditionally exempt from subpart W and subpart J requirements, among a number of other requirements. However, with respect to conditionally excluding wastewaters that are reused, one approach we could take in crafting a national provision (whether regulatory or legislative) is to grant the conditional exclusion only when the wastewaters are used in connection with a drip pad that is in compliance with RCRA Subpart W drip pad standards. Should we do this, your question would be moot.

It would be useful to know if anyone in your office has been able to determine how many facilities might become CESQGs if their in-process wastewater is not counted as solid waste; and whether this issue has occurred at any facilities to date, in the absence of a national wastewater exclusion for those wastewaters prior to reclamation. Second, I would be interested to hear whether you think a typical wood preserving facility could qualify for an exemption under 261.5, especially those conditions under 261.5(g)(3),(4), or (5).

Finally, I would like to say that I appreciate all the help that Seth Heminway of your office has been able to provide us on a number of issues related to this industry. My staff will continue to work with Seth to resolve any key issues raised by your draft Wood Preserving Compliance Notebook.

I look forward to seeing any information you can provide on the CESQG issue.

Enclosure