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RCRA/SUPERFUND HOTLINE MONTHLY

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1. Administrative Stay for Wood Preserving Wastes

On June 13, 1991, EPA announced an administrative stay that extends the date by which owners and operators of facilities that manage F032, F034, and F035 wastes on drip pads are required to comply with the standards of 264/265 Subpart W. (56 FR 27332) How does this affect the management and of wood preserving wastes?

Three new listings for wastes generated by wood preserving processes, F032, F034, and F035, were on December 6, 1990. (55 FR 50450) Due to the inability of a significant portion of the affected facilities to comply with the new drip pad standards by the effective date of June 6, 1991, EPA announced an administrative stay that postpones the applicability of the new listings to certain process areas and drip pads at 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." (56 FR 27333) In order to qualify for the stay, by August 6, 1991, affected facilities must notify the appropriate authorized State or EPA Regional office of their intent to comply with the new regulations or to cease operation. (56 FR 27333) By November 6, 1991, affected facilities must submit a second notification providing evidence that they expect to comply in good faith.

1. Administrative Stay for Wood Preserving Wastes (Cont'd)

Provided the facility gives proper notice, certain activities that would otherwise constitute disposal of F032, F034, or F033 wastes into a process area or onto an existing drip pad are not regulated during the stay. However, the removal or subsequent management of such wastes outside of the process area or drip pad, including soil contaminated with these wastes, would be considered generation of a hazardous waste and cause the waste- to become subject to regulation under Subtitle C of RCRA. The scope of the stay is, therefore, limited and applies only to those wood preserving wastes managed in process areas or on existing drip pads. (56 FR 27333) In addition, any active management of previously unregulated wastes after the expiration of the stay would constitute generation of an F032, F034, or F033 waste.

Although the administrative stay does postpone the effective date of the F032, F034, and F035 listings for certain wastes, these wastes may already be regulated as hazardous if they exhibit the Toxicity Characteristic (TC). During the stay, wood preserving wastes which exhibit the TC are subject to full Subtitle C regulation, and cannot be disposed of on the land except in a properly permitted land disposal facility. According to 40 CFR 264.570(a), and 263.440(a), Subpart W standards "apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, and/or surface water run-on, to an associated collection system". Therefore, owners and operators who manage wood preserving wastes that exhibit the Toxicity Characteristic on drip pads can use pads to collect their wastes.

See 55 FR 50470-71 (technical correction notice signed June 21, 1991).

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