

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 264, 265, and 302

[FRL-4155-5]

RIN 2050-AD35

Wood Preserving; Identification and Listing of Hazardous Waste; Standards and Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

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**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is amending the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) by modifying the technical standards for drip pads used to collect preservative drippage from treated wood and modifying the listings of three categories of hazardous waste from the wood preserving industry. These listings include wastewaters, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use or have used pentachlorophenol (F032), that currently use creosote (F034), or that currently use inorganic preservatives containing arsenic or chromium (F035). This action modifies portions of the regulations that were previously finalized by EPA on December 6, 1990 (50 FR 50450). Portions of that final rule were administratively stayed on June 13, 1991 (56 FR 27332), and again on February 6, 1992 (published in the Federal Register on February 18, 1992 [57 FR 5859]). Today's amendments constitute final action on the June 1991 Administrative Stay and result in termination of that stay. The February 6, 1992 stay is also terminated as a result of today's action. This notice also modifies the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list of hazardous substances to reflect the modifications to the F032, F034, and F035 hazardous waste listings.

**DATES:** This final rule will become effective on December 24, 1992 except for the amendments to the following provisions which are effective on June 24, 1993: §§ 264.570(c)(1), 264.573(a)(4)(i), and (b)(3), 265.440(c)(1), 265.443(a)(4)(i) and (b)(3) and the revision of hazardous waste number F032 in § 261.31. See section VII of Supplementary Information for further details.

ADDRESSES: The official record of this rule-making is identified by Docket Number F92-WP2F-FFFFF and is located at the following address: EPA RCRA Docket Clerk, Room 2427 (OS-332), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy 100 pages from the docket at no charge; additional copies are \$0.15 per page. Copies of materials relevant to the CERCLA portions of this rulemaking also are located in room 2427 at the above address.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, at (800) 424-9346 (toll-free) or (703) 920-9810, in the Washington, DC metropolitan area. The TDD Hotline number is (800) 553-7672 (toll-free) or (703) 486-3323, locally. For technical information on the modifications to the hazardous waste listings and drip pad standards, contact Mr. David J. Carver at (202) 260-6775, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460.

For technical information on the CERCLA aspects of this rule, contact: Ms. Gerain H. Perry, Response Standards and Criteria Branch, Emergency Response Division (OS-210), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-5650.

>>> Preamble has not been included in this file. <<<<

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as follows:

#### 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, 6934, and 6938.

2. In § 261.31 the table is amended by revising the F032, F034, and F035 listings.

§ 261.31 Hazardous wastes from non-specific sources.

\* \* \* \* \*

| Industry and<br>EPA hazardous<br>waste No. | Hazardous waste | Hazar<br>d<br>code |
|--|-----------------|--------------------|
| *  | *               | *                  |

|      |  |     |
|------|--|-----|
| F032 | Wastewaters (except those that have not come into contact with process contaminants), 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 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), 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 | (T) |
| F034 | Wastewaters (except those that have not come into contact with process contaminants), 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   | (T) |
| F035 | Wastewaters (except those that have not come into contact with process contaminants), 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  | (T) |

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

3. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

4. Section 264.570 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 264.570 Applicability.

(a) The requirements of this subpart 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-off to an associated collection system. Existing drip pads are those constructed before December 6, 1990 and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990. All other drip pads are new drip pads. The requirement at § 264.573(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992 except for those constructed after December 24, 1992 for which the owner or operator has a design and has entered into

binding financial or other agreements for construction prior to December 24, 1992.

\* \* \* \* \*

(c) The requirements of this subpart are not applicable to the management of infrequent and incidental drippage in storage yards provided that:

(1) The owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of such infrequent and incidental drippage. At a minimum, the contingency plan must describe how the owner or operator will do the following:

(i) Clean up the drippage;

(ii) Document the cleanup of the drippage;

(iii) Retain documents regarding cleanup for three years;  
and

(iv) Manage the contaminated media in a manner consistent with Federal regulations.

5. Section 264.571 is amended by revising the last sentence of paragraph (a), and revising paragraph (b) to read as follows:

§ 264.571 Assessment of existing drip pad integrity.

(a) \* \* \* The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 264.573 of this subpart, except the standards for liners and leak detection systems, specified in § 264.573(b) of this subpart.

(b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of § 264.573(b) of this subpart, and submit the plan to the Regional Administrator no later than 2 years before the date that all repairs, upgrades, and modifications are complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of § 264.573 of this subpart. The plan must be reviewed and certified by an independent qualified registered professional engineer.

\* \* \* \* \*

6. Section 264.572 is revised to read as follows:

§ 264.572 Design and installation of new drip pads.

Owners and operators of new drip pads must ensure that the pads are designed, installed, and operated in accordance with one of the following:

(a) all of the requirements of §§ 264.573 (except 264.573(a)(4)), 264.574 and 264.575 of this subpart, or

(b) all of the requirements of §§ 264.573 (except § 264.573(b)), 264.574 and 264.575 of this subpart.

7. Section 264.573 is amended by revising paragraphs (a)(4) and (b) introductory text and paragraph (i) and adding paragraph (b)(3) to read as follows:

§ 264.573 Design and operating requirements.

(a) \* \* \*

(4)(i) Have a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second 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. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to existing drip pads and those drip pads for which the owner or operator elects to comply with § 264.572(a) instead of § 264.572(b).

(ii) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this section, except for paragraph (b) of this Section.

\* \* \* \* \*

(b) If an owner/operator elects to comply with § 264.572(b) instead of § 264.572(a), the drip pad must have:

\* \* \* \* \*

(3) A leakage collection system immediately above the liner that is designed, constructed, maintained and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

\* \* \* \* \*

(i) The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and the cleaning procedure used in the facility's operating log. The owner/operator must determine if the residues are hazardous as per 40 CFR 262.11 and, if so, must manage them under parts 261-268, 270, and section 3010 of RCRA.

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

8. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) 6924, 6925, and 6935.

9. Section 265.440 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 265.440 Applicability.

(a) The requirements of this subpart 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-off to an associated collection system. Existing drip pads are those constructed before December 6, 1990 and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990. All other drip pads are new drip pads. The requirement at § 265.443(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992 except for those constructed after December 24, 1992 for

which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

\* \* \* \* \*

(c) The requirements of this subpart are not applicable to the management of infrequent and incidental drippage in storage yards provided that:

(1) The owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of such infrequent and incidental drippage. At a minimum, the contingency plan must describe how the facility will do the following:

(i) Clean up the drippage;

(ii) Document the cleanup of the drippage;

(iii) Retain documents regarding cleanup for three years;  
and

(iv) Manage the contaminated media in a manner consistent with Federal regulations.

10. Section 265.441 is amended by revising the last sentence of paragraph (a), and revising paragraph (b) to read as follows:

§ 265.441 Assessment of existing drip pad integrity.

(a) \* \* \* The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 265.443 of this subpart, except the standards for liners and leak detection systems, specified in § 265.443(b) of this subpart.

(b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of § 265.443(b) of this subpart, and submit the plan to the Regional Administrator no later than 2 years before the date that all repairs, upgrades, and modifications are complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of § 265.443 of this subpart. The plan must be reviewed and certified by an independent qualified registered professional engineer.

\* \* \* \* \*

11. Section 265.442 is revised to read as follows:

§ 265.442 Design and installation of new drip pads.

Owners and operators of new drip pads must ensure that the pads are designed, installed, and operated in accordance with one of the following:

(a) All of the applicable requirements of §§ 265.443 (except § 265.443(a)(4)), 265.444 and 265.445 of this subpart, or

(b) All of the applicable requirements of §§ 265.443 (except § 265.443(b)), 265.444 and 265.445 of this subpart.

12. Section 265.443 is amended by revising paragraphs (a)(4) and (b) introductory text, and paragraph (i) and adding paragraph (b)(3) to read as follows:

§ 265.443 Design and operating requirements.

(a) \* \* \*

(4)(i) Have a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second 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. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to existing drip pads and those drip pads for which the owner or operator elects to comply with § 265.442(a) instead of § 265.442(b).

(ii) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this section, except for subsection (b).

\* \* \* \* \*

(b) If an owner/operator elects to comply with § 265.442(b) instead of § 265.442(a), the drip pad must have:

\* \* \* \* \*

(3) A leakage collection system immediately above the liner that is designed, constructed, maintained and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

\* \* \* \* \*

(i) The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and the cleaning procedure used in the facility's operating log.

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>>>> § 271 and § 301 have not been included because they are not required as part of a State's Hazardous Waste Program. <<<<

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