

**40 CFR Part 164**

Administrative practice and procedure, Pesticides and pests.  
**Edward E. Reich,**  
*Environmental Appeals Judge.*

Accordingly, the publication on February 13, 1992 is corrected as follows:

**Correction of Publication**

**§ 86.1015 [Corrected]**

Paragraph 1. On page 5333, in the first column, amendment 5, in the amendatory language and in the section heading marked "§ 86.1015-84 Treatment of confidential information" the section number is corrected to read "§ 86.1015."

**§ 124.78 [Corrected]**

Paragraph 2. On page 5336, in the first column, amendment 7, in the section heading "§ 124.75 Ex parte communications" the numeral "5" in the section number is corrected to read "8".

**§ 164.2 [Corrected]**

Paragraph 3. On page 5342, in the first column, the amendatory language for amendment 2 is corrected to read as follows:

2. Section 164.2 is amended by revising paragraph (c), redesignating paragraphs (g) through (r) as paragraphs (h) through (s) and by adding a new paragraph (g) to read as follows:

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**40 CFR Part 261**

[EPA/OSW-FRL-4151-2]

RIN 2050-AA78

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic; Corrections**

**AGENCY:** Environmental Protection Agency, (EPA).

**ACTION:** Final rule; corrections.

**SUMMARY:** On March 29, 1990, the Environmental Protection Agency (EPA) promulgated a rule (55 FR 11798) to revise the existing toxicity characteristics (TC) used to identify certain wastes defined as hazardous; these wastes are regulated under subtitle C of the Resource Conservation and Recovery Act (RCRA) due to their potential to leach significant concentrations of specific toxic constituents. In the preamble, the exclusion from subtitle C regulation for arsenical-treated wood and wood

products was revised inappropriately. This rule corrects that revision. Today's rule also deletes two additional references in the Code of Federal Regulations (CFR) to the Extraction Procedure (EP) Toxicity Characteristic and replaces them with references to the TC.

**EFFECTIVE DATE:** The revision is effective July 10, 1992.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact the RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 260-3000 in the Washington, DC metropolitan area. For information on specific aspects of this notice, contact Dave Topping, Waste Identification Branch, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-7737.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On March 29, 1990 (55 FR 11798), EPA promulgated a rule to revise the existing toxicity characteristics used to identify certain wastes defined as hazardous; these waste are regulated under subtitle C of RCRA. This rule broadened the scope of the hazardous waste regulatory program and fulfilled specific statutory mandates under the Hazardous and Solid Waste Amendments of 1984. The existing Extraction Procedure was replaced by the Toxicity Characteristic Leaching Procedure (TCLP), and additional constituents were added to the list that could cause a waste to be hazardous under the toxicity characteristic. Technical corrections to this rule were published on June 29, 1990 (55 FR 26986), August 2, 1990 (55 FR 31387), and September 27, 1990 (55 FR 39409).

**B. Arsenical-Treated Wood**

Today's rule corrects an error made at the time of promulgation of the final Toxicity Characteristic (TC) rule. The 1990 rule amended the preexisting exclusion from the characteristic of EP Toxicity to arsenical-treated wood and wood products. Previously, 40 CFR 261.4(b)(9) excluded from the definition of hazardous waste those discarded arsenical-treated wood or wood products that failed the test for EP toxicity characteristic (EPTC) and were not hazardous for any other reason, if the waste was generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

When the TC was promulgated, EPA revised that provision to reflect the new characteristics. However, the Agency

unintentionally narrowed the scope of the exclusion by rewording the provision so that only arsenical-treated wood and wood products that failed the TC "solely for arsenic" would be excluded. Therefore, arsenical-treated wood and wood products that failed the TC for other EP constituents (e.g., chromium) would not become regulated as hazardous waste. However, EPA had not intended to change the scope of the arsenical-treated wood exclusion. As noted in the preamble (55 FR 11805), EPA had intended only to replace references to the EPTC with the TC. Today's rule, therefore, corrects the arsenical-treated wood and wood products exclusion by excluding these materials from RCRA subtitle C if they exhibit the TC for any of the EP constituents but are not hazardous for any other reason and are used for their intended purpose.

**C. Other Technical Corrections**

Today's rule also corrects the regulatory language in 40 CFR 261.4(b)(6)(ii) and 265.301(d)(1) by deleting references to the Extraction Procedure (EP) Toxicity Characteristic and by correctly referencing the TC. 40 CFR 261.4(b)(6)(ii) contains the list of specific chromium bearing wastes that are not hazardous wastes if they do not exhibit the TC or other characteristics of hazardous waste. Also, the technical correction in 40 CFR 265.301(d)(1) applies to the double liner design requirements for landfills at interim status facilities. This correction makes the requirements identical to those for permitted facilities, as found in 40 CFR 264.301(e)(1).

**D. Rulemaking Procedures**

Because the revisions in this notice correct inadvertent errors or omissions from the 1990 TC rule and are not substantive changes in the scope or content of the affected provisions, public notice and comment on these revisions is necessary. See 5 U.S.C. 553(b)(3)(B). For the same reasons, an immediate effective date is appropriate. 5 U.S.C. 553(d).

**Richard J. Guimond,**  
*Deputy Assistant Administrator, Solid Waste and Emergency Response.*

For the reasons set out in the preamble, chapter I of 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), 6922, and 6938.

2. Section 261.4 is amended by revising paragraph (b)(6)(ii) introductory text to read as follows:

**§ 261.4 Exclusions.**

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(ii) Specific waste which meet the standard in paragraphs (b)(6)(i) (A), (B), and (C) (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are: \* \* \*

3. Section 261.4 is amended further by revising paragraph (b)(9) to read as follows:

**§ 261.4 Exclusions**

\* \* \* \* \*

(b) \* \* \*

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials' intended end use.

\* \* \* \* \*

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

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

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

5. Section 265.301 is amended by revising paragraph (d)(1) to read as follows:

**§ 265.301 Design requirements.**

\* \* \* \* \*

(d) \* \* \*

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such waste does not contain constituents which would render the wastes hazardous for reasons other than the Toxicity Characteristic in § 261.4 of this chapter, with EPA Hazardous Waste Number D004 through D017; and

\* \* \* \* \*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**45 CFR Parts 302 and 303**

RIN 0970-AA63

**Child Support Enforcement Program: Immediate Income Withholding; Review and Adjustment of Child Support Orders; Notice of Assigned Support Collected**

**AGENCY:** Office of Child Support Enforcement (OCSE), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements three provisions of the Family Support Act of 1988 (Pub. L. 100-485). Section 101 of this Act requires immediate wage withholding, with certain exceptions, in the case of support orders issued or modified on or after November 1, 1990, and being enforced under the IV-D State plan. Immediate wage withholding begins January 1, 1994, for orders issued on or after that date, if the case is not being enforced by the IV-D program. Section 103(c) of this Act requires periodic review of support orders and adjustment, as appropriate, in accordance with State guidelines for support award amounts, effective October 13, 1990. Section 103(c) also establishes more specific review and adjustment requirements effective October 13, 1993; those requirements will be addressed in a separate rulemaking. Section 104 of this Act requires monthly notices of collections to individuals who have assigned their rights to support to the State. Monthly notices are required beginning January 1, 1993, unless the State obtains a waiver in order to send quarterly notices.

**DATES:** *Effective date:* This rule is effective July 10, 1992.

*Compliance dates:* The various compliance dates of the statutory requirements are:

- November 1, 1990—Immediate Income Withholding (§ § 302.70 and 303.100)
- October 13, 1990—Review and Adjustment of Orders (§ § 302.70, 303.4, and 303.8)
- October 13, 1993—Review and Adjustment of Orders
- January 1, 1993—Notice of Assigned Support Collected (§ 302.54)
- January 1, 1994—Immediate Income Withholding, all orders,

**FOR FURTHER INFORMATION CONTACT:** Policy Branch, OCSE, specifically:

Marilyn Cohen (202) 401-5366 regarding review and adjustment of child support orders;  
 Lourdes Henry (202) 401-5440 regarding monthly notice of support collected;  
 Craig Hathaway (202) 401-5367 regarding immediate wage withholding.

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

Public reporting burden for the collection of information requirements in this final regulation, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, is estimated as follows:

| Requirement                         | Average time per response |
|-------------------------------------|---------------------------|
| § 302.54(b) (1) and (2): notices... | 30 seconds.               |
| § 302.54(c): waiver.....            | 1 hour, one time.         |
| § 302.70(a)(10): procedures.....    | 8 hours, one time.        |
| § 303.8(b)(1): plan.....            | 8 hours, one time.        |
| § 303.100(b)(3): agreement.....     | 1 minute.                 |
| § 303.100(f)(1)(ii): payment.....   | 30 seconds.               |

These information collection requirements were approved under OMB control number 0970-0110.

**Statutory Authority**

This regulation is published under the authority of the following provisions of the Social Security Act (the Act), as amended by Public Law 100-485: sections 466 (a)(8) and (b)(3) with respect to immediate income withholding; section 466(a)(10) with respect to periodic review of individual support award amounts; and section 454(5)(A) covering timing of notice of support collections. This regulation is also published under the general authority of section 1102 of the Act, which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

**Background and Description of Regulatory Provisions**

*1. Notice of Assigned Support Collected*

Former 45 CFR 302.54 required States, at least annually, to provide notice of the amount of support payments collected during the past year to individuals who have assigned rights to support under 45 CFR 232.11. The notice must list separately payments collected from each absent parent when more than one absent parent owes support to the family and indicate the amount of