

March 29, 1999

Becky Holmes
Montana Department of Health and Environmental Sciences
Waste Management Division
2209 Phoenix Avenue, P.O. Box 200901
Helena, MT 59620-0901

Dear Ms. Holmes:

This is in response to your letter of July 14, 1997 requesting the Environmental Protection Agency (EPA) to evaluate information provided to the State of Montana Department of Health and Environmental Sciences (MDHES) by Missoula White Pine Sash Company (MWPSC), in which they maintain that they have performed wood surface protection, not wood preservation, and as such, have not generated F032 wastes. Previously, on March 27, 1995 EPA responded to Montana regarding a similar request from the MWPSC facility. At that time, the Agency stated that the intent of MWPSC's process had been wood preserving, not surface protection. Now, because additional information has been provided by MWPSC to MDEHS, you have asked EPA to revisit the facility's request.

After reviewing the latest information provided by MWPSC, the Agency still maintains that the intent of MWPSC's process was wood preserving and not wood surface protection. Therefore, the wood treating wastes generated at the facility meet the F032 listing description. Furthermore, any media (e.g., soils or groundwater) actively managed which contain this waste, would likewise carry the hazardous waste listing waste code. Discussion supporting our decision is provided below.

As set forth in our March 27, 1995 letter, the distinction between wood surface protection and wood preserving is based upon the intent of the process. The preamble to the proposed wood surface protection preamble (58 Fed. Reg. 25707), states that "The Agency considers a 'wood preserving process' to be any process intended to preserve wood from structural attack. A wood surface protection process is a process merely

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intended to prevent surface discoloration. The distinction, therefore, is not based on the type of process used, i.e., pressure treatment or non-pressure dip treatment, but on the intent of the treatment itself." While wood preserving is intended to protect the physical integrity of the wood, wood surface treatment merely provides protection from discoloration during short term storage.

According to information provided by MWPSC, and in Attachment 1 section 3(c), the facility states that "The stability of the wood is the reason that hydrocarbon-based, water repellent preservatives were used. Water-based systems would cause the precision product to warp and swell. . . ." These statements indicate the intent of the process was not surface protection, but wood preserving, because surface protection is not intended to protect against warping, but only against surface discoloration. Furthermore, oil-borne protectant tends to provide a greater depth of penetration than water-borne protectant, providing greater water repellency and protection against warping. Also, as described in the operating procedures submitted by the company, the process used required an operator to check for depth of penetration of the protectant, further indicating that the process was designed to achieve a depth of penetration into the wood, indicative of wood preserving.

We believe, therefore, that the intent of MWPSC's operation was, in fact, wood preserving, based upon our discussion above and in our previous letter. Thank you for the opportunity to provide assistance with issues related to wood preserving. If you have any questions, please call Jeff Gaines at (703) 308-8655.

Sincerely,

Sonya Sasseville, Acting Chief
Permits Branch (5303W)
Office of Solid Waste

cc: Frank McAlister, PSPD
Jim Michael, PSPD
Dave Carver, HWMMD
Bill Rothenmeyer, Region VIII

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