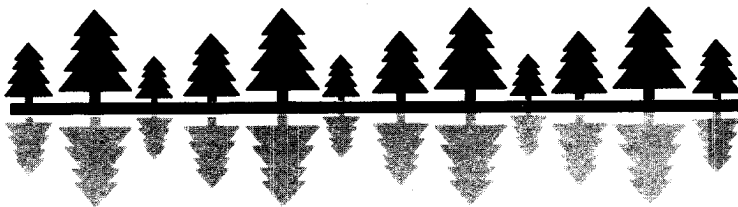

*Management of
Used Treated Wood Products*

*Addendum for
the Western United States*





I. STATE OF WASHINGTON

In Washington, the classification and handling of wastes falls under the Department of Ecology's Dangerous Waste Regulations (Chapter 173-303 WAC). In January, 1994, the regulations were revised to exclude treated wood waste and wood products from the Dangerous Waste Rules [WAC 173-303-071 (3) (g)].

Under the state's rule, arsenical treated wood is exempt from state "dangerous" waste designation provided it meets the provisions of the federal arsenical exemption. That is, even if it fails the criteria for waste numbers D004 through D017 or "any state criteria," it is exempt if the waste is generated by persons who utilize the material for its intended end use.

Other types of treated wood materials are also exempt provided they are not a federal hazardous waste and they are: disposed of at a modern landfill; sent to a facility that will "legitimately treat or recycle the treated wood waste;" sent to a permitted Treatment, Storage and Disposal Facility. Creosote materials are further specifically exempt if burned for energy recovery in an appropriately permitted facility.

Furthermore, the Washington Department of Ecology "...encourages the reuse of treated wood as a preferred management alternative. Reuse is not regulated provided such reuse is consistent with the intended end use of the treated wood. Examples of reuse include: use as fence posts, retaining walls, landscaping, decks, bulkheads, general construction and the like." (Preamble to Rule Revisions - Page 7).

State of Washington Regulations

Chapter 173-303 WAC -- Dangerous Waste Regulations

WAC 173-303-071 -- Excluded Categories of Waste

(3) Exclusions. The following categories of waste are excluded from the requirements of Chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-3-3-960.

(g) Treated wood waste and wood products including:

(i) Arsenical -treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through DO 17 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenic al-treated wood for the materials' intended end use.

(ii) Wood treated with other preservatives provide such treated wood is, within 180 days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or Chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through WAC 173-303-845. In addition, creosote treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to bum creosote treated wood.



STATE OF OREGON

Under Oregon State law, all materials containing a pesticide residue including treated wood are automatically considered a hazardous material unless excluded or it passes the state Aquatic Toxicity Test. In March, 1994, the Oregon Environmental Commission completed a two step effort to revise the Oregon Administrative Rules (OAR) with the practical effect of exempting treated wood from state hazardous waste designation and management requirements.

Rule 340-101-033 [Additional Hazardous Wastes (5)(a)] provides that materials subjected to the federal TCLP are exempted from testing under the states Aquatic Toxicity Procedures. Thus creosote and penta materials passing the federal TCLP are not a state hazardous waste.

Rule 340-101-034 [Wastes Requiring Special Management (2)] provides for the other preservatives that:

- * Spent treated wood that is reused is exempt from special management and from state designation as a hazardous waste.
- * Treated wood construction waste and material removed from service that are not a federal listed waste or exempted by the updated federal arsenical exclusion, but which fail the state aquatic test are excluded from hazardous waste rules provided they are not speculatively accumulated and are disposed of at a modern landfill or other facility authorized to receive such waste.

State of Oregon Regulations

Rule 340-101-033 Additional Hazardous Waste

(5) (a) Pursuant to "Department of Environmental Quality Hazardous Waste Aquatic Toxicity Testing Procedures," a pesticide residue or pesticide manufacturing residue is a toxic hazardous waste if a representative sample of the residue exhibits a 96-hour aquatic LC50 equal to or less than 250 mg/l, except for residues listed in Table I of 40 CFR 261.24 which pass the evaluation requirement of 40 CFR 261.24(a).

Rule 340-101-034 Waste Requiring Special Management

(2) Pesticide Treated Wood. Spent treated wood that is used or reused for a purpose for which the material would be treated is exempt from this part and from OAR 340-101-033(5)(a). Waste resulting from the use of newly treated pesticide wood, including scrap lumber, shavings and sawdust; waste resulting from shaping pesticide treated wood, such as sawdust, shavings and chips; and treated wood removed from service that do not meet the criteria specified in 40 CFR Part 261, Subpart C, and are not a federal hazardous waste for any other reason; and, are not otherwise excluded by 40 CFR 261.4(b)(9), but meet the criteria identified in 340-101033(5)(a); are not subject to Divisions 100 to 108.

provided:

- (a) the waste is not stored for more than six months unless the generator demonstrates that a longer storage time is necessary to meet the management standards in OAR 340-101-034(2)(b); and,
- (b) the waste is recycled, disposed of according to OAR 340-93-190(l)(g), or disposed of at a hazardous waste facility or other facility authorized to receive such waste.



STATE OF CALIFORNIA

California has its own rules for evaluation of solid wastes as hazardous which go beyond the federal rules. In 1995, legislation passed regarding utility industry materials; and between 1984 and 1994, the California Environmental Protection Agency issued variances, both of which, when the provisions are met, exclude requirements for testing and allow disposal of discarded treated wood products as nonhazardous materials.

* Utility Materials -- In 1995, legislation was passed and signed by the governor which exempts treated wood removed from utility service from state only hazardous waste designation. Specifically the law provides:

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25143.1.5 is added to the Health and Safety, Code, to read:

25143.1.5. Any wood waste, previously treated with a preservative, that has been removed from public or private utility service is exempt from the requirements of this chapter if all of the following conditions are met:

- 1. The wood waste is not subject to regulation under the federal act.*
- 2. The wood waste is disposed of in a solid waste landfill that meets the leachate collection system and liner requirements of Subpart (D) of Part 258 of Title 40 of the Code of Federal Regulations.*
- 3. The solid waste landfill used for disposal is authorized to accept the wood waste under waste discharge requirements issued by the California regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the water code.*

* Reuse On July 17, 1985, a variance was granted, which remains in effect and states "...when these materials (treated wood) are recycled in a way consistent with the use of the preservative (it) is a beneficial use and does not need to be regulated."

The variance to California Administrative Code (Chapter 30, Division 4, Title 22) provides reused treated wood may be handled as a nonhazardous material provided it is "reused in a way that it replaces wood that would be normally treated with a similar preservative and that "...the recycled wood is not to be used in a manner that constitutes disposal or in a manner that is inconsistent with the use of treated wood."

* Disposal -- Variances have also been issued by the state for the various types of treated wood to allow disposal by the users of the materials as nonhazardous wastes. The variances are subject to the following provisions:

1. The waste is disposed at a Class III refuse landfill containing a liner and leachate collections system as specified in Chapter 15, Title 23, California Code of Regulations.
2. The landfill described in the above paragraph must be approved for the disposal of these wastes by the Regional Water Quality Control Board and/or any other federal, state or local agency with appropriate jurisdiction.
3. The wood must be managed at the landfill so that scavenging is not allowed.

It should be noted that in a few cases the local Regional Water Quality Control Boards have restricted specific facilities from accepting treated wood due to space or other concerns. In such cases, materials have to go to a different facility.

* The Future -- The California EPA Department of Toxic Substances Control is currently implementing a "Regulatory Structure Update." This process will, in part, create self-implementing standards for specific non-RCRA wastes. Treated wood is one of the lead materials undergoing this review. The Institute expects this process will ultimately produce guidelines that will replace current variances and it will continue to allow disposed treated wood to be handled as a nonhazardous material.

Management of Used Treated Wood Products in the Western United States

In addition to the federal regulations, disposal may also be subject to state and local authorities. This addendum addresses state regulations in the western United States (Rocky Mountains to the Pacific Coast).

To WWPI's knowledge all states, except as noted, administer the classification and disposal of treated wood utilizing the federal regulations and requirements without additional state requirements. Three states -Washington, Oregon and California, have separate rules addressing the designation and disposal of treated wood. Fortunately these states, through regulation and variances, have requirements which differ little from the federal rules and allow materials considered nonhazardous under federal guidelines to be dealt with as nonhazardous under state rules.

Parties needing to dispose of treated wood material are cautioned to be sure they are aware of any state or local requirements which may exceed the federal standards. The Western Wood Preservers Institute urges reuse of materials whenever practical and strongly supports responsible disposal. WWPI believes it is appropriate and fortunate that all western states have adopted rules which facilitate disposal in a manner generally consistent with the federal standards.

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