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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUL 16 1985

Jean Summers Stinson  
R.W. Summers Railroad Contractor, Inc.  
P.O. Box 1456  
Bartow, Florida 33830

Dear Mr. Stinson:

This is in reply to your letter of June 21, 1985, in which you asked whether the disposal of cross ties treated with creosote is subject to regulation by the Environmental Protection Agency (EPA). Under Subtitle C of the Resource Conservation and Recycling Act (RCRA), EPA has issued regulations listing only the commercial product creosote, when discarded, and two manufacturing process wastes (Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol (K001) and Wastewater treatment sludges generated in the production of creosote (K035)) as hazardous under RCRA.

Creosote treated cross ties are not covered by any of these listings. These ties also could be considered hazardous if they exhibit any of the hazardous waste characteristics (i.e., ignitability, corrosivity, reactivity, extraction procedure (EP) toxicity); however, it is unlikely that the creosote treated cross ties would exhibit any of these characteristics. Therefore, the treated ties are likely not defined as a subject to the hazardous waste regulation.

The disposal of creosote treated cross ties are subject to some regulation under the recently promulgated rules developed under the Federal Insecticide Fungicide, and Rodenticide Act (FIFRA), however. In particular, on July 13, 1984, the Agency issued its Rebuttable Presumption Against Registration (RPAR) for the three major wood preservatives--namely, inorganic arsenicals, pentachlorophenol, and creosote. Among other things, these rules require that wood which has been treated with pentachlorophenol and/or creosote should not be burned in an outdoor fire or in stoves or fireplaces; rather this wood should be buried in a landfill. This requirement was

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included to ensure that no toxic contaminants would be released as a result of the burning process. (For more information on the FIFRA rules, please contact Carol Langley at 557-7400.)

I presume this information provides sufficient answers to your question. If you need further clarification, please feel free to telephone Dr. Judith S. Bellin at 202-382-4789.

Sincerely,

Matthew A. Straus  
Waste Identification Branch

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