

September 24, 1985

Walter G. Talarek  
General Counsel  
American Wood Preservers Institute  
Tyson's International Bldg, Suite 405  
1945 Gallows Rd.  
Vienna, VA 22180

*Dear Mr. Talarek:*

This is in reply to your letter dated August 21, 1985, in which you requested confirmation on the regulatory Status under the Resource Conservation and Recovery Act of railroad ties treated with creosote that are intended for disposal. First, let me apologize that it took so long to get a written response back to you; I hope our delay has not caused you any problems.

With respect to your question, you are correct in your interpretation that the creosote-treated ties that are disposed of are not currently regulated under the hazardous waste rules (i.e., the creosote-treated ties are neither specifically listed as hazardous nor do they exhibit any of the characteristics of a hazardous waste, as you indicated in your May 10, 1985, letter to Dr. John Skinner. As you know, however, the disposal issue is also being considered under Federal Insecticide Fungicide and Rodenticide Act (FIFRA), in the wood preservatives administrative proceeding.

I hope this information provides sufficient answers to your questions. If you have any further questions, please feel free to contact Dr. Cate Jenkins of my staff at (202) 382-4786.

Sincerely,

J. Winston Porter  
Assistant Administrator

Faxback 11104

May 10, 1985

Dr. John H. Skinner  
Director  
Office of Solid Waste  
United States Environmental Protection Agency  
401 N Street, Southwest  
Washington, District of Columbia 20460

Dear Dr. Skinner:

I am writing to you to seek your guidance on a matter of the utmost concern to the wood preserving industry. The matter concerns the classification of railroad ties treated with the pesticide creosote and which are intended for discard under the Resource conservation and Recovery Act (RCRA).

It is my interpretation of EPA's identification and listing regulations, at 40 C.F.R. Part 261, that creosoted-railroad ties intended for discard would not be classified as hazardous waste. My interpretation is based on the fact that creosoted-railroad ties (1) have not been listed as a hazardous waste in Subpart D and (2) do not exhibit any of the characteristics of hazardous waste identified in Subpart C.

Would you please confirm my interpretation of the status of creosoted-railroad ties intended for discard under RCRA at your earliest convenience? Your confirmation will assist greatly the many wood treaters and railroads which are presently having difficulty resolving this question with some Of the states and EPR regional offices.

Thank you for your attention to this matter.

Sincerely yours,

Walter G. Talarek  
General Counsel

