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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Honorable Stewart B. McKinney
Member, United States
House of Representatives
Federal Building
915 Lafayette Boulevard
Bridgeport, CT 06604

Dear Mr. McKinney:

This is written in response to your letter of January 21, 1986, requesting a reply to an inquiry from Mr. Vern Sielert. Mr. Sielert wishes to know whether there are federal regulations classifying wood treated with creosote as a hazardous waste.

Creosote treated wood is not likely to be defined as hazardous under Subtitle C of RCRA and, thus, not subject to the hazardous waste regulations. Under Subtitle C of the Resource Conservation and Recovery Act (RCRA), wastes are defined as hazardous if they are listed or exhibit any of the hazardous waste characteristics (i.e., ignitability, corrosivity, reactivity, or extraction procedure (EP) toxicity). EPA has issued regulations listing only the commercial product creosote, when discarded, and two manufacturing process wastes (i.e., 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 wood is not covered by any of these listings. In addition, it is unlikely that creosote treated wood would exhibit any of the hazardous waste characteristics. It should be noted that wastes not defined as hazardous under EPA's regulations may still be hazardous under an authorized State program.

The disposal of creosote treated wood, however, is subject to regulation under rules developed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In particular, on July 3, 1984, EPA issued its Rebuttable Presumption Against Registration (RPAR) for the three major wood preservations--namely, creosote, pentachlorophenol, and inorganic arsenicals. Among other things, these rules require

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that wood which has been treated with creosote should not be burned in an outdoor fire or in stoves or fireplaces; rather, this wood should be buried in a non-hazardous waste landfill unless otherwise required by the State. This requirement was included to ensure that no toxic contaminants would be released as a result of the burning process.

Please feel free to give me a call if I can be of any further assistance.

Sincerely,

J. Winston Porter
Assistance Administrator