

Jay Feldman, Executive Director
Beyond Pesticides/National Coalition Against the Misuse of Pesticides
701 E Street, SE
Suite 200
Washington, D.C. 20003

Dear Mr. Feldman:

Thank you for your letter of July 22, 2002, to Administrator Whitman in which you attached a petition requesting that the Agency repeal the regulation codified at 40 C.F.R. 261.4(b)(9), which exempts arsenical-treated wood and wood products from hazardous waste regulation under the Resource Conservation and Recovery Act. Administrator Whitman asked that I provide a response on her behalf.

I appreciate the concerns you raise in your petition, and we will consider them carefully. As you are aware, the Office of Solid Waste (OSW) has been working with the Office of Pesticide Programs during the Agency's pesticide re-registration process for wood preservatives (including chromated copper arsenic (CCA)). OSW has also been reviewing the recent findings from researchers at the Universities of Florida and Miami regarding the management of discarded CCA-treated lumber, and we will continue to monitor ongoing research efforts. In addition, OSW has also been reviewing state regulations and policies applicable to CCA-treated wood, in order to learn more about how these materials are being managed once they enter the solid waste stream.

In your letter, you indicate that you will consider this petition to be denied if EPA has not taken action on it within 45 days of its filing. I want to emphasize that we are giving your petition careful consideration, but 45 days is simply not enough time for EPA to respond to the issues it raises. At this time, therefore, we are not yet in a position to act on your petition.

Thank you for raising this important issue with us. If you have any questions or want to track our progress in addressing your petition, please contact James Michael of my staff at 703-308-8610.

Sincerely,

Marianne Lamont Horinko
Assistant Administrator

RO 14621