

4WD-RCRA

Mr. Gene Penick, Jr.
Penick Forest Products
Post Office Box 479
Macon, MS 39341

Dear Mr. Penick:

Thank you for your letter dated July 5, 2001, to Christine Todd Whitman, Administrator of the U.S. Environmental Protection Agency (EPA), concerning permission to burn creosote-contaminated soils.

EPA concurs with the Mississippi Department of Environmental Quality's (MDEQ) position that according to the regulations found at 40 C.F.R Parts 260-270 as promulgated pursuant to the Resource Conservation and Recovery Act (RCRA), creosote released into the soils is a hazardous waste. Therefore, soils contaminated with a hazardous waste must also be managed as a hazardous waste. Burning off the creosote contained in these soils so as to render the material non-hazardous is considered treatment according to the RCRA statute and as found in EPA's regulations. In order for Penick Forest Products to lawfully perform treatment of these soils, the facility would need a permit. If your facility does not hold a treatment permit as set forth in the statute and in EPA's regulations, then the contaminated soils must be sent off site to a hazardous waste disposal facility.

We understand that certain regulatory requirements can be economically burdensome, however, based on the information given, EPA cannot provide an alternative solution to this particular problem. We emphasize the fact that the State of Mississippi is authorized by EPA to administer the regulations applicable to these types of issues and should be consulted to determine if all solutions have been explored.

We appreciate your desire to protect and preserve the environment and hope you find this

information helpful. If EPA may be of further assistance, please feel free to contact Anna Torgrimson at (404) 562-8608.

Sincerely,

Richard D. Green, Director
Waste Management Division

cc: Mr. Don Watts, Mississippi
Department of Environmental Quality

RO 14583

TORGRIMSON	PALLAS	GRUBBS	GREEN