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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUN 28 1991

Mr. Rudy Leutzinger
Burns & McDonnell
P.O. Box 419173
Kansas City, MO 64141-6173

Dear Mr. Leutzinger:

This is in response to your April 10 letter to Steve Cochran regarding the regulatory status of CCA treated wood when disposed. Discarded wood and wood products that would be hazardous only because they fail the Toxicity Characteristic for the 14 hazardous constituents originally regulated through the EP Toxicity Characteristic (i.e., D004-DO17) are not hazardous wastes, per 40 CFR 261.4(b)(9). When we promulgated the Toxicity Characteristic, we modified the hazardous waste regulations to replace references to the EP Toxicity Characteristic with references to the Toxicity Characteristic. In the case of the exclusion for wood, our rewording inadvertently narrowed the scope of the exclusion to refer only to wood wastes that fail the characteristic for arsenic (as opposed to failing the characteristic for any of the 14 EP constituents). We are currently writing a Federal Register notice to correct this language.

Should you have any further questions regarding this issue, please feel free to contact Dave Topping of my staff at (202) 382-7737.

Sincerely,

Sylvia K. Lowrance
Director
Office of Solid Waste

RO 11622