

September 4, 2008

Ned Therien
101 Israel Road S.E.,
P.O. Box 47990
Olympia, WA 98504,

Subject: **Western Wood Preservers Institute Comments Regarding Proposed New Regulation,
Chapter 246-366A WAC, Primary And Secondary Schools**

Mr. Therien:

The Western Wood Preservers Institute (WWPI) is the trade association representing wood preserving companies and wood preservative manufacturers doing business in the western United States, including Washington State. I am writing to provide comments regarding the proposed new regulations of the Washington Administrative Code related to Primary and Secondary Schools. The new regulations include requirements related to treated wood that are unnecessary and misleading.

The specific sections of the regulation that concern the WWPI are as follows:

WAC 246-366A-060 General construction requirements. School officials shall:

(8) Prohibit the use of chromated copper arsenate or creosote treated wood where it is accessible to students.

WAC 246-366A-150 Playgrounds -- Construction and installation requirements. (1) School officials shall:

(d) Prohibit the use of chromated copper arsenate or creosote treated wood to construct or install playground equipment or landscape and other structures on which students may play.

WAC 246-366A-155 Playgrounds -- Operation and maintenance requirements. School officials shall:

(2) Prohibit the use of chromated copper arsenate or creosote treated wood to repair or maintain playground equipment or landscape and other structures on which students may play.

The prohibition on use of wood treated with CCA is unnecessary because the EPA approved pesticide labels for this preservative currently does not allow the uses being prohibited. Since the end of 2003, use of CCA treated wood is limited to heavy duty or industrial type applications, such as marine construction, transportation structures, and utility poles, and is

not approved for dimensional lumber for residential or commercial applications. CCA treated dimensional lumber can no longer be purchased at lumber stores because they now stock wood treated with non-arsenical preservatives.

The proposed regulations are misleading to the public because they 1) incorrectly imply that such a restriction is needed to prevent such uses (It is not, since such material is no longer available.), 2) will lead to confusion since wood treated with other preservatives may look the same, and 3) incorrectly imply that the presence of such treated wood would present a health risk (It would not, as shown below.).

The following discussion is intended to provide some facts and perspective related to these issues.

CCA-Treated Wood

Chromated copper arsenate (CCA) is a wood preservative that has been registered and approved by the US Environmental Protection Agency to protect wood from dry rot, fungi, molds, termites, and other pests that can threaten the integrity of wood products. It is injected by a process that uses high pressure to penetrate wood products with the pesticide.

CCA-treated wood has been used since the 1930's. Prior to December 31, 2003, CCA-treated wood had been produced for use in many areas including residential and recreational applications, such as decks, walkways, home fences, gazebos, and playground equipment. Since that date, the continued uses of CCA are limited mostly to industrial applications, such as, utility poles, bridges, bulkheads, highway applications, structural columns, agricultural uses, marine construction, and cooling towers.

In February 2002, the manufacturers of CCA individually informed the Agency that they would voluntarily cancel their registrations for non-industrial uses of CCA-treated wood, effective December 31, 2003. EPA praised the industry and remarked that this voluntary action has resulted in a transition, years ahead of what the government could have done through its standard regulatory process.

On its current website, at

http://www.epa.gov/oppad001/reregistration/cca/cca_consumer_doc.htm, EPA provides two key pieces of advice for consumers:

- EPA does not believe there is any reason to remove or replace CCA-treated structures, including decks and playground equipment.

- EPA is not recommending surrounding soils be removed or replaced.

US Consumer Product Safety Commission (CPSC), in referencing the pending transition, "voted unanimously today to deny a petition to ban the use of chromated copper arsenate (CCA) pressure-treated wood in playground equipment." (November 4, 2003)

The Commission correctly took the position that it made no sense to ban a product that would no longer be manufactured after December 31, 2003 and that existing inventories would be depleted by July of 2004.

In announcing the industry voluntary plan, EPA commented,

"EPA has not concluded that CCA-treated wood poses unreasonable risks to the public for existing CCA-treated wood being used around or near their homes or from wood that remains available in stores. EPA does not believe there is any reason to remove or

replace CCA-treated structures, including decks or playground equipment. EPA is not recommending that existing structures or surrounding soils be removed or replaced.” (Environmental Protection Agency, February 12, 2002)

<http://yosemite.epa.gov/opa/admpress.nsf/b1ab9f485b098972852562e7004dc686/1a8cfb4970823b3885256b5e006ffd67?OpenDocument>

More could be said, but the important message is that even if CCA treated lumber was available for construction in school grounds, it would not pose any significant risk.

As many people know, CCA treated wood is typically green or may be stained brown. New preservatives now in use, such as ACQ and copper azole, are also green and may also be stained brown. School officials may be forced to “prove” that treated wood installed meets the regulations or will simply choose more expensive non-treated wood products.

Creosote-Treated Wood

Unlike CCA, there is no prohibition or regulated use of wood pressure treated with creosote though the Consumer Information Sheet does recommend not using it where there will be frequent or prolonged contact with bare skin unless an effective sealer has been applied. However, it is unlikely creosote treated wood would be readily available for use in playground equipment though it is not uncommon for creosote treated railroad ties that have been taken out of service to be reused as a landscape retaining structure. It is important to note though, typically such railroad ties have been in use by railroads for 10 to 50 years before being taken out of service so that any creosote constituents remaining in the wood are quite stable and present minimal exposure potential.

Further Discussion

As the WWPI reads the proposed regulations, they seem not to prevent use of CCA or creosote treated wood utility poles, sign posts, or guard-rail posts on or near school grounds. However, this interpretation is not clear. The terms “*where it is accessible to students*” might easily be read to prevent such utility poles or posts anywhere on school grounds. If the restrictions remain in the regulations, utility poles and roadside sign and guardrail posts should be exempted from the regulation.

Wood is a cost effective and renewable resource that removes carbon dioxide from the air as it grows and when treated with a preservative it is held (sequestered) in the wood indefinitely. Confusion related to finding acceptable products will likely lead to choosing materials other than wood costing 2-3 times more, like galvanized steel or plastic, and the manufacture of which contributes to global warming due to the significant releases of carbon dioxide related to fossil fuel.

WWPI Position

The WWPI requests and recommends that the above quoted proposed sections of WAC 246-366A prohibiting the use of CCA or creosote treated wood be deleted. While we share your concerns and desire to protect our school children, the proposed rule does little in this regard because they prohibit something that would not happen anyway. They will likely result in confusion and unwarranted concern by the public. They may even cause schools to use more expensive, less safe, non-renewable materials than treated wood for other construction and maintenance projects.

Otherwise, should you choose to keep the prohibitions, then the WWPI recommends that utility and transportation related structures be exempted from the prohibitions.

Thank you for considering our comments and request. Please feel free to contact me if you have any questions.

Sincerely,

Ted LaDoux
Executive Director
Western Wood Preservers Institute