

OMB Review Clears Additional Ties For Inclusion In NHSM Rule

EPA Publishes New Rule Feb 7

FAYETTEVILLE, Ga.—The Office of Management & Budget (OMB) concluded its review of the EPA's proposed rule to list creosote-borate, copper naphthenate and copper naphthenate-borate treated railway ties as a non-waste fuel under the Non-Hazardous Secondary Materials rule, the Railway Tie Association reported.

This action is the result of a petition filed by the Treated Wood Council (TWC) on behalf of a coalition of organizations (including RTA and AAR) in April 2013.

OMB determined that the proposed rule was consistent with changes made by EPA following the public comment period. The new rule* was signed by EPA Administrator Scott Pruitt in late January and published in the Feb. 7, 2018, Federal Register.

The text of the rule is printed below:

§241.4 Non-Waste Determination For Specific Non-Hazardous Secondary Materials When Used As A Fuel

(a) ***

(8) Creosote-borate treated railroad ties, and mixtures of creosote, borate and/or copper naphthenate treated railroad ties that are processed and then combusted in the following types of units. Processing must include, at a minimum, metal

removal and shredding or grinding.

(i) Units designed to burn both biomass and fuel oil as part of normal operations and not solely as part of start-up or shut-down operations; and

(ii) Units at major source pulp and paper mills or power producers subject to 40 CFR part 63, subpart DDDDD, designed to burn biomass and fuel oil as part of normal operations and not solely as part of start-up or shut-down operations, but are modified (e.g., oil delivery mechanisms are removed) in order to use natural gas instead of fuel oil, the creosote-borate mixed creosote, borate and copper naphthenate treated railroad ties may continue to be combusted as product fuel under this subparagraph only if the following conditions are met, which are intended to ensure that such railroad ties are not being discarded:

(A) Creosote-borate and mixed creosote, borate and copper naphthenate treated railroad ties must be burned in existing (i.e., commenced construction prior to April 14, 2014) stoker, bubbling bed, fluidized bed, or hybrid suspension grate boilers; and

(B) Creosote-borate and mixed creosote, borate and copper

naphthenate treated railroad ties can comprise no more than 40 percent of the fuel that is used on an annual heat input basis.

(iii) Units meeting requirements in paragraph (a)(8)(i) or (ii) of this section that are also designed to burn coal.

(9) Copper naphthenate treated railroad ties that are processed and then combusted in units designed to burn biomass, biomass and fuel oil, or biomass and coal. Processing must include at a minimum, metal removal, and shredding or grinding.

(10) Copper naphthenate-borate treated railroad ties that are processed and then combusted in units designed to burn biomass, biomass and fuel oil, or biomass and coal. Processing must include at a minimum, metal removal, and shredding or grinding.

In a Feb. 12 press release, Nisus Corporation President and CEO Kevin Kirkland noted that the research Nisus funded as part of the TWC effort was important in establishing that the additional wood preserving technologies were comparable to untreated wood, thus allowing ties with these treatments to be burned as valuable fuel in any approved biomass boilers, stating, "This exemplifies the treated wood and railroad industries' commitment to the pursuit of sustainable solutions."

For more information, please see the following link for the preamble of the rule: <https://www.federalregister.gov/documents/2018/02/07/2018-02337/additions-to-list-of-categorical-non-waste-fuels-other-treated-railroad-ties>

*This is the second NHSM rule making process for crossties. The original rule covering creosote-only ties is 241.4, to which this is an amendment.

 **Trans Canada
Wood Products Ltd.**

Producers of Quality Railroad
Forest Products

CEDAR TIE PLUGS
"SUPPLYING QUALITY PRODUCTS AT
COMPETITIVE PRICES FOR OVER 18 YEARS"

Richard O'Mara • Dave McCarthy • Pamela Nikolovski
(705) 721-1116 • (705) 721-7933-Fax
toll-free at: (800) 208-0054