



**Rules of
Department of Agriculture
Division 70—Plant Industries
Chapter 40—Missouri Treated Timber Products
Law Rules**

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**Title 2—DEPARTMENT OF
AGRICULTURE**

**Division 70—Plant Industries
Chapter 40—Missouri Treated
Timber Products Law Rules**

2 CSR 70-40.005 Treated Timber Definitions

PURPOSE: This rule defines terms used throughout the Treated Timber Law.

(1) American Wood Protection Association (AWPA)—Non-profit organization which is responsible for promulgating voluntary wood preservation standards.

(2) Chromated copper arsenate (CCA)—Waterborne wood preservative that is used for the treatment of utility poles, cross arms, pilings, fence posts, and highway structures. Use of this preservative for residential use was eliminated December 31, 2003.

(3) Copper azole—Waterborne wood preservative that was introduced into Missouri in 2004. Primary components of preservative are copper, tebuconazole, and propiconazole. Product is used in the treatment of decking, dimensional lumber, and landscape timbers.

(4) Copper naphthenate—Copper-based wood preservative that has a distinctive dark green color. Product is typically mixed with diesel fuel or P-9 oil and is used in treatment of utility poles, cross arms, landscape timbers, fence posts, rough sawn lumber, and highway structures.

(5) Core sample—Small, thin cylinder of wood created by increment boring and utilized to determine treatment levels in treated wood products.

(6) Creosote—Wood preservative distilled from coal tar. Product has a dark brown to black color with a characteristic odor and is used in the treatment of railroad ties, utility poles, and fence posts.

(7) End tag—Waterproof label that should be attached to all treated wood products sold to Missouri consumers. Label is required to possess information indicating the name and address of wood treater, what type of wood preservative is used, the level of treatment, and any other information required by the director.

(8) International Code Council Evaluation Service (ICC-ES)—Non-profit, public benefit

corporation that performs technical evaluations of building products, components, methods, and materials including wood preservative systems.

(9) Penetration—Refers to the depth in which wood preservatives penetrate the wood after treatment. It is typically measured in inches.

(10) Pentachlorophenol—Wood preservative that is a synthetic chlorinated hydrocarbon. Product is typically mixed with diesel fuel or P-9 oil and is used in the treatment of utility poles, landscape timbers, fence posts, and rough sawn lumber.

(11) Regulatory sample—Core samples collected by a representative of the Missouri Department of Agriculture for the purpose of determining compliance with the treating standards associated with the Missouri Treated Timber Law.

(12) Retention—The amount of wood preservative retained in the outer zone of wood after treatment. It is typically measured in pounds per cubic foot (pcf) of wood.

(13) Service sample—Core or solution samples collected by a representative of the Missouri Department of Agriculture or other competent party approved by the Missouri Department of Agriculture for the purpose of determining retention, penetration, or solution concentrations. Information obtained from these types of samples has no impact on sample conformance rates of treating companies and is only intended for informational purposes.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Aug. 27, 2008, effective March 30, 2009.*

**Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.*

**2 CSR 70-40.010 Treated Timber License
(Rescinded February 1, 1981)**

AUTHORITY: 280.050, RSMo 1978. Original rule filed March 8, 1962, effective March 18, 1962. Amended: Filed April 18, 1974, effective April 28, 1974. Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.

2 CSR 70-40.015 Standards for Treated Timber

PURPOSE: This rule establishes standards to be used by anyone selling or offering for sale

treated timber products in the state of Missouri.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Unless otherwise noted, all wood preservatives, preservative solutions, and preservative systems used shall be standardized by the American Wood Protection Association (AWPA) and listed in the current *AWPA Book of Standards*, published annually in May as incorporated by reference in this rule. This material may be obtained by contacting the AWPA at PO Box 361784, Birmingham, AL 35236-1784, by visiting the Uniform Resource Locator of the AWPA at www.awpa.com, or by contacting the Missouri Department of Agriculture at PO Box 630, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

(A) Standards for wood preservatives, preservative solutions, or preservative systems established by virtue of an approved, current evaluation report issued by the International Code Council Evaluation Service (ICC-ES) shall constitute an acceptable alternative to AWPA listing. Evaluation Service Reports (ESR) or National Evaluation Reports (NER) are available by visiting the Uniform Resource Locator of the ICC at www.icc-es.org.

(2) Standards for Treatment of Coniferous, Softwood Species. The requirements for retention and penetration of wood preservatives used shall not be less than the current *American Wood Protection Association Book of Standards*, published annually in May, as incorporated by reference in this rule, except that—

(A) Softwoods not listed in the *AWPA Use Category Tables* as treatable species shall be labeled, "Does not conform to AWPA Standards." Furthermore, products that fall under this classification and are intended for ground contact use shall also include the statement, "Not recommended for structural purposes."

(B) Softwood peeler core landscape timbers shall be exempted from meeting AWPA



standards, if each individual timber possesses a label or end tag that states the following, “Does not conform to AWPA Standards, not recommended for structural purposes.” If these commodities are not labeled with this particular language, AWPA requirements for retention and penetration will be enforced.

(C) Standards for retention and penetration established by virtue of an approved, current evaluation report issued by the International Code Council Evaluation Service (ICC-ES) shall constitute an acceptable alternative to AWPA listing.

(D) All products as defined by this rule shall be labeled with a tag in accordance to the following requirements:

1. Tags shall remain attached at each point of sale and may only be removed by the final purchaser;
2. Each tag shall be placed on the surface of each product so that it is readily visible to the purchaser;
3. Each tag shall be legible; and
4. Tags shall be constructed of water resistant material.

(3) Standards for Treatment of Deciduous, Hardwood Species. The requirements for retention and penetration of wood preservatives used shall not be less than the current *American Wood Protection Association Book of Standards*, published annually in May, as incorporated by reference in this rule, except that—

(A) The minimum net retention for oil-borne pentachlorophenol in the treatment of hardwoods, other than white oak, shall be 0.20 pounds of active ingredient per cubic foot (pcf). White oak shall be treated to refusal;

(B) The minimum net retention for water-borne copper chromated arsenate in the treatment of hardwoods, other than white oak, shall be 0.264 pounds of active ingredient per cubic foot. White oak shall be treated to refusal;

(C) The minimum net retention for oil-borne copper naphthenate in the treatment of hardwoods, other than white oak, shall be 0.033 pounds per cubic foot copper as metal. White oak shall be treated to refusal;

(D) The minimum net retention for water-borne copper azole in the treatment of hardwoods, other than white oak, shall be 0.10 pounds per cubic foot (pcf). White oak shall be treated to refusal;

(E) All hardwood posts, lumber, and timbers treated under the exemptions listed shall be labeled with a tag indicating the retention level of the product. An example of proper labeling for penta treated hardwoods is the

following: “Red oak treated to retention level of 0.20 pcf, white oak treated to refusal.”;

(F) Hardwoods not listed in the *AWPA Use Category Tables* as “treatable species” shall be labeled, “Does not conform to AWPA Standards.” Furthermore, products that fall under this classification and are intended for ground contact use shall also include the statement, “Not recommended for structural purposes.”;

(G) Standards for retention and penetration established by virtue of an approved, current evaluation report issued by the International Code Council Evaluation Service (ICC-ES) shall constitute an acceptable alternative to AWPA listing; and

(H) All products as defined by this rule shall be labeled with a tag in accordance to the following requirements:

1. Tags shall remain attached at each point of sale and may only be removed by the final purchaser;
2. Each tag shall be placed on the surface of each product so that it is readily visible to the purchaser;
3. Each tag shall be legible; and
4. Tags shall be constructed of water resistant material.

(4) Other Treatment Standards. All other standards for treatment of timber or timber products with preservatives not covered by 2 CSR 70-40.015 shall not be less than the current *American Wood Protection Association Book of Standards*, published annually in May, as incorporated by reference in this rule, except that—

(A) Other alternative standards for wood preservatives established by virtue of an approved, current evaluation report issued by the International Code Council Evaluation Service (ICC-ES) shall constitute an acceptable alternative to AWPA listing.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Oct. 10, 1980, effective Feb. 1, 1981. Amended: Filed Sept. 15, 1984, effective Jan. 2, 1985. Amended: Filed Dec. 16, 1985, effective March 13, 1986. Amended: Filed March 14, 1986, effective June 16, 1986. Amended: Filed March 18, 1987, effective April 1, 1988. Amended: Filed Jan. 12, 1990, effective April 16, 1990. Rescinded and readopted: Filed Aug. 6, 2002, effective March 30, 2003. Amended: Filed Aug. 30, 2004, effective March 30, 2005. Amended: Filed Feb. 6, 2008, effective Sept. 30, 2008.*

**Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.*

2 CSR 70-40.016 Producers to Follow Pesticide Label

PURPOSE: This rule specifies the federal and state laws that pertain to the wood preservative chemicals as pesticides and clarifies that label directions for these chemicals must be followed in accordance with these laws.

All treated timber producers who treat wood products with a registered pesticide and/or wood preservative, must comply with the directions for use provided by the pesticide label as required by the Federal Insecticide, Fungicide and Rodenticide Act, the Missouri Pesticide Use Act, sections 281.010–281.115, RSMo (1986) and/or by the standards set by 2 CSR 70-40.015.

AUTHORITY: section 280.050, RSMo 1986. Original rule filed Dec. 16, 1985, effective May 15, 1986.*

**Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.*

2 CSR 70-40.017 Preservatives Required to be Registered Pesticides

PURPOSE: This rule clarifies that all wood preservatives used must be registered with or exempted from registration with the Environmental Protection Agency before they may be used.

(1) All wood treating preservatives used must be registered with or exempted from registration with the Environmental Protection Agency before they may be used.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Feb. 6, 2008, effective Sept. 30, 2008.*

**Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.*

2 CSR 70-40.020 Standards for Treated Timber Products

(Rescinded February 1, 1981)

AUTHORITY: section 280.050, RSMo 1978. Original rule filed March 8, 1962, effective March 18, 1962. Amended: Filed Sept. 15, 1976, effective Dec. 11, 1976. Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.



2 CSR 70-40.025 Standards for Inspection, Sampling and Analyses

PURPOSE: This regulation establishes guidelines for standards of inspection, sampling and analysis of treated timber products.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Unless otherwise noted, standards for inspection procedures shall be in accordance with the current *American Wood Protection Association (AWPA) Book of Standards*, published annually in May, as incorporated by reference in this rule. This material may be obtained by contacting the AWPA at PO Box 361784, Birmingham, AL 35236-1784, by visiting the Uniform Resource Locator of the AWPA at www.awpa.com, or by contacting the Missouri Department of Agriculture at PO Box 630, Jefferson City, MO 65101.

(A) When inspection procedures have been altered for products treated to an Evaluation Service Report (ESR) or National Evaluation Report (NER), the wood treater shall provide a summary of the relevant changes to the department with appropriate documentation. The department shall then assess the products based on those changes.

(2) Unless otherwise noted, standards for sampling and quality control procedures shall be in accordance with the current *American Wood Protection Association (AWPA) Book of Standards*, published annually in May, as incorporated by reference in this rule.

(A) Where these sampling and quality control procedures have been altered for products treated to an Evaluation Service Report (ESR) or National Evaluation Report (NER), the wood treater shall provide a summary of the relevant changes to the department with appropriate documentation. The department shall then assess the products based on those changes.

(B) Any core samples taken during an inspection shall consist of one (1) lot. A lot for inspection at the treating plant will normally be a retort charge. A lot for inspection at plant storage yards or at sales yards where

the final purchase has not been made shall be that material available at the time and place of inspection which contains products from any one (1) treating plant and shall contain only one (1) species and one (1) preservative treatment. Lumber, plywood, and posts shall not be mixed in one (1) inspection lot.

(C) "Regulatory" samples will be collected from a minimum of two (2) units or bundles of treated material, however, "service" samples may be collected from any quantity of material available during the inspection.

(D) Hardwood species treated with pentachlorophenol or creosote covered under 2 CSR 70-40.015(2)(A)-(D) will be analyzed for retention by assay.

(E) Effective March 30, 2003, all treated timber producers will be required to maintain an eighty percent (80%) compliance rating. Samples will be taken from a minimum of two (2) units or bundles of treated material. After ten (10) samples have been taken from separate lots, compliance rates will be calculated. Every effort will be made to ensure that separate lots are sampled, however, if bundles are not marked with a lot number or if the treater is unsure of the lot number, samples will simply be taken from available material of the same dimensions, treated by the same treater with the same preservative. If a producer has three (3) or more stop sales based on either retention or penetration failures within these ten (10) samples, the producer will be contacted and informed that if an eighty percent (80%) compliance rating is not met after an additional ten (10) samples have been taken, the director or his/her representative will hold a hearing to determine if the producer's license should be suspended or revoked. If it is determined that the producer has not made a good faith effort to gain compliance, the director may suspend or revoke the license of the treated timber producer as provided under section 280.040, RSMo.

(3) Unless otherwise noted, standards for methods of analysis for wood preservatives shall be in accordance with the current *American Wood Protection Association (AWPA) Book of Standards*, published annually in May, as incorporated by reference in this rule.

(A) Where these analysis methods have been altered for products treated to an Evaluation Service Report (ESR) or National Evaluation Report (NER), the wood treater shall provide a summary of the relevant changes to the department with appropriate documentation. The department shall then assess the products based on those changes.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Oct. 10, 1980, effective Feb. 1, 1981. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed Dec. 16, 1985, effective March 13, 1986. Rescinded and readopted: Filed Aug. 6, 2002, effective March 30, 2003. Amended: Filed Aug. 30, 2004, effective March 30, 2005. Amended: Filed Feb. 6, 2008, effective Sept. 30, 2008.*

**Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.*

2 CSR 70-40.030 Filing of Treatment Statement with the Director of Agriculture (Rescinded February 1, 1981)

AUTHORITY: section 280.050, RSMo 1978. Original rule filed March 8, 1962, effective March 18, 1962. Amended: Filed Sept. 15, 1976, effective Dec. 11, 1976. Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.

2 CSR 70-40.040 Branding of Treated Timber

PURPOSE: This rule requires each treated timber company to brand, for identification purposes, all treated timber products sold in Missouri.

(1) All treated timber, as defined in section 280.010, RSMo 2000, shall be labeled clearly with a waterproof end tag before being sold or offered for sale except that—

(A) Commercial products such as railroad ties, utility poles, and crossarms may be branded.

(2) All end tags shall be registered with the director of agriculture.

(3) All commercial product brands shall be registered with the director of agriculture and shall not be identical to nor closely resemble any other company's brand or brands registered with the director of agriculture.

(4) All end tags used under this regulation shall not be less than one-half inch (1/2") in width and length.

(5) All end tags must possess the following requirements:

- (A) Name and address of treater;
- (B) Type of preservative used; and
- (C) Retention level and/or end use.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed March 8, 1962, effective March 18, 1962. Amended: Filed Sept. 15,*



1976, effective Dec. 11, 1976. Amended: Filed Oct. 10, 1980, effective Feb. 1, 1981. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Rescinded and readopted: Filed Aug. 6, 2002, effective March 30, 2003. Amended: Filed Feb. 6, 2008, effective Sept. 30, 2008.

*Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.

2 CSR 70-40.050 Requirements for Treated Timber Invoices and Manifests

PURPOSE: To require a company to show an invoice, including the type of treating process, the kind of preservatives and amount of preservatives retained in the material being sold.

(1) Each invoice accompanying each shipment of treated timber shall include, in addition to the provisions of section 280.080, the percent of preservative, if in solution, used in the treatment process.

(2) Invoices may be mailed provided a manifest giving the information as set forth in section 280.080, accompanies each shipment of treated timber while in transit.

(3) The director or authorized agent or agents may stop a shipment of treated timber while in transit at anytime to check for invoice or manifest accompanying shipment.

AUTHORITY: section 280.050, RSMo 1986.* Original rule filed March 8, 1962, effective March 18, 1962. Amended: Filed Sept. 15, 1976, effective Dec. 11, 1976. Amended: Filed Oct. 10, 1980, effective Feb. 1, 1981. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985.

*Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.

2 CSR 70-40.055 Sale or Distribution of Wood Products Similar in Appearance to Treated Timber—Identification—Penalties

PURPOSE: This rule will provide a method of distinguishing between timber products dipped in nonpreservatives and timber products treated according to the Missouri Treated Timber Law. This rule also specifies that a violation is punishable under section 407.110, RSMo 1986, the Missouri Merchandising Practices Act.

(1) The sale of wood products to which non-preservative solutions have been applied,

such as used motor oil, diesel fuel, and tar solutions, green or brown stains, or any other solutions similar in appearance to acceptable wood preservatives, but not recognized as such under 2 CSR 70-40.015(1) of this law, is prohibited.

(2) Violation of this rule shall be considered prima facie evidence of violation of the Merchandising Practices Act, Chapter 407, RSMo and shall subject the violator to all its enforcement provisions.

AUTHORITY: section 280.050, RSMo 2000.* Original rule filed Dec. 16, 1985, effective May 15, 1986. Rescinded: Filed Feb. 6, 2008, changed to amended June 23, 2008, effective Sept. 30, 2008.

*Original authority: 280.050, RSMo 1961, amended 1979, 1984, 1993, 1995.

2 CSR 70-40.060 Exceptions to Treated Timber Rules

(Rescinded February 1, 1981)

AUTHORITY: section 280.050, RSMo 1978. Original rule filed March 8, 1962, effective March 18, 1962. Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.

2 CSR 70-40.070 The American Wood Preservers' Association Standards

(Rescinded February 1, 1981)

AUTHORITY: section 280.050, RSMo 1978. Original rule filed Aug. 16, 1976, effective Nov. 11, 1976. Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.

2 CSR 70-40.080 Federal Specifications for Wood Preservation

(Rescinded February 1, 1981)

AUTHORITY: section 280.050, RSMo 1978. Original rule filed Aug. 16, 1976, effective Nov. 11, 1976. Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.