

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 70-40.010 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(Rescinded February 1, 1981)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 Rescinded: Filed Oct. 10, 1980, effective Feb. 1, 1981.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. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The preservatives and preservative solution used shall meet the American Wood Preservers' Association (AWPA) Standard P-Preservative, as published in the 2002 *AWPA Book of Standards*, as incorporated by reference in this rule.

(2) Standards for Treatment of Coniferous, Softwood Species. The requirements for retention and penetration of preservatives used shall not be less than the published 2002 *American Wood Preservers' Association Book of Standards*, as incorporated by reference in this rule, except that—

(A) For ponderosa pine, red pine and southern yellow pine, the minimum net retention level of copper naphthenate shall be .055 pounds per cubic foot, copper as metal, for round poles and posts used as structural members. This section shall expire when use category standards are established by AWPA for these products;

(B) 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."

(C) Softwood peeler core landscape timbers shall be exempted from meeting AWPA standards, if treater puts tags on each individual timber that states the following, "Does not conform to AWPA standards, not recommended for structural purposes." Companies who fail to label these products with this disclaimer will be regulated based on AWPA standards.

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

A. Tags shall remain attached at each point of sale and may only be removed by the final purchaser;

B. Each tag shall be placed on the surface of each product so that it is readily visible to the purchaser;

C. Each tag shall be legible;

D. Tags shall be constructed of water resistant material.

(3) Standards for Treatment of Deciduous, Hardwood Species. The requirement for retention and penetration of preservatives used shall not be less than the published 2002 *American Wood Preservers' Association Standards*, 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 or equal to four (4.0) pounds of five percent (5%) solution. 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. 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) Effective March 30, 2003, all hardwoods, five inches (5") and greater in thickness and treated according to subsections (3) (A)–(C) or up to the levels of the AWPA Use Category Tables, shall be labeled with a tag as follows:

1. Hardwoods listed in the AWPA manual shall be labeled with a tag stating the per-

centage of AWPA ground contact or above ground contact retention level guaranteed and a statement of treatment to refusal for white oak. For example, a mixed bundle of white and red oak timbers, five inches (5") in thickness and greater, treated with a five percent (5%) solution of pentachlorophenol to 0.20 pounds of active ingredient per cubic foot, for ground contact, shall be tagged "Treated to 66% of AWPA Ground Contact Standards. White Oak Treated to Refusal." Furthermore, the same mixed bundle of white and red oak timbers, treated under the same conditions to 0.25 pounds of active ingredient per cubic foot could also be tagged, "Treated to 100% of AWPA Above Ground Contact Standards. White Oak Treated to Refusal";

2. 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."

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

A. Tags shall remain attached at each point of sale and may only be removed by the final purchaser;

B. Each tag shall be placed on the surface of each product so that it is readily visible to the purchaser;

C. Each tag shall be legible;

D. 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 published 2002 *American Wood Preservers' Association Book of Standards*, as incorporated by reference in this rule.

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.*

**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 70-40.020 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 Analysis

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. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The standards for inspection procedures shall be in accordance with the American Wood Preservers Association (AWPA) Standard M2-Inspection of Treated Timber Products as published in the 2002 AWPA Book Of Standards, as incorporated by reference in this rule.

(2) The standards for sampling and quality control procedures shall be in accordance with the published 2002 American Wood Preservers' Association, as incorporated by reference in this rule, except that—

(A) 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.

(B) The number of core samples taken during inspection of coniferous, softwood species shall be twenty (20) per lot. The samples shall be selected randomly from the lot being inspected;

(C) The number of core samples taken during inspection of deciduous, hardwood species shall be eight (8) per lot. The samples shall be randomly selected from the lot being inspected.

(D) 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. No more than three (3) samples from separate lots will be taken during any inspection of an individual treating company's product. After ten (10) samples (twenty (20) cores per sample for softwood species, eight (8) cores per sample for hardwood species) 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 (twenty (20) cores per sample for softwood species, eight (8) cores

per sample for hardwood species) 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) The standards for methods of analysis for all type preservatives used shall be in accordance with the American Wood Preservers' Association (AWPA) Standard A-Analysis Methods, as published in the 2002 AWPA Book of Standards, as incorporated by reference in this rule.

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.

*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, two inches (2") thick and over shall be branded clearly and with reasonable permanency by one (1) of the following methods before being sold or offered for sale in the state of Missouri:

- (A) Hammerstamp branding
- (B) Water-proof labels;
- (C) Ink-stamp branding.

(2) All treated timber, as defined in section 280.010, RSMo 2000, less than two inches (2") in nominal thickness shall not have less than twenty percent (20%) of the pieces with-

in a bundle branded before being sold or offered for sale in the state of Missouri.

(3) All 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) The brand used under this regulation shall not be less than one-half inch (1/2") in diameter.

(5) Labels or ink stamps must possess the following requirements:

- (A) Name and address of treater;
- (B) Type of preservative used;
- (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.*

**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. These products may be sold for outside exposure situations, however, if labeled as follows:

NOT TREATED TIMBER—DOES NOT CONFORM TO MISSOURI TREATED TIMBER LAW. OIL SOLUTION APPLIED WILL NOT SIGNIFICANTLY EXTEND USEFUL LIFE OF PRODUCT. TAG REMOVED BY FINAL PURCHASER ONLY.

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

(A) All products one and one-half inches (1 1/2") or larger in thickness shall have each and every piece labeled with the required tag;

(B) Tags shall remain attached at each point of sale and may only be removed by the final purchaser;

(C) Each tag shall be placed on a surface of each product so that it is readily visible to the purchaser;

(D) Each tag shall be legible;

(E) Tags shall bear the required information in print of not less than ten (10) point type;

(F) Tags shall be constructed of water resistant material; and

(G) Tags shall have minimum dimensions of one and one-half inches in width by three inches (1 1/2" × 3") in length.

(3) An invoice shall accompany each shipment of products as defined by this rule and shall include a copy or facsimile of the required tag.

(4) 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 1986. Original rule filed Dec. 16, 1985, effective May 15, 1986.*

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

2 CSR 70-40.060 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.