

Summary of Comments

The Agency received comments and recommendations in response to the proposed rule from the following organizations: North American Wood Pole Council (NAWPC), McFarland Cascade, Cox Industrial Group, Wood Quality Control (WQC), Cox Industrial Group, Lee Inspection and Consulting Services, A.W. Williams Inspection Co. (AWW), Texas Electric Cooperatives(TEC), Timber Products Inspection and Dis-Tran Wood Products. No comments from any other sources were received. These comments and recommendations and the Agency's responses are summarized as follows:

Comment: Lee Inspection, NAWPC, TEC, and AWW questioned the need for liability insurance and errors and emission insurance and the amount of coverage.

Agency Response: RUS has required outside contractors doing work for borrowers to have high levels of liability insurance for many years. The insurance requirement was added to stay in line with present agency practices. The proposed insurance was reviewed and the errors and omission insurance requirement was eliminated for pole and crossarm producers. Since inspection agencies are performing a service, their liability and errors and omissions insurance requirement remains.

Comment: NAWPC and Timber Products Inspection questioned the need to treat kiln dried poles within 30 days after drying.

Agency Response: Paragraph 4.2.1 of Bulletin 1728F-700 dated September 1993 requires that "kiln dried poles shall be treated within 1 month from the time they are removed from the kiln." This has been an RUS requirement for nearly twenty years and RUS believes that this requirement is needed.

Comment: NAWPC and Timber Products Inspection questioned why there is an inconsistency in paragraph 8.1 of Bulletin 1728F-700 concerning sterilization of Douglas fir poles.

Agency Response: The sterilization time for Douglas-fir is revised to be in line with other species.

Comment: McFarland, NAWPC and Timber Products Inspection suggested the inclusion of the modified full cell process to help control overtreatment.

Agency Response: The modified full cell process was added as suggested.

Comment: Timber Products Inspection pointed out that the maximum temperature for treatment in Western Red Cedar in the table in paragraph 8.2 of Bulletin 1728F-700 is not in agreement with American Wood Protection Association Standards.

Agency Response: Bulletin 1728F-700 was revised to meet the AWPA standard.

Comment: NMWPC, Timber Products Inspection and TEC mentioned that the wording in paragraph 9.6.2 of Bulletin 1728F-700 be revised from “supplemental groundline type preservative” to “a preservative approved for use in ground line contact by the AWPA.”

Agency Response: Wording was revised to use “a preservative approved for use by AWPA.”

Comment: Lee Inspection, NMWPC, Timber Products Inspection and AWW felt to certify inspectors and quality control personnel on the use of XRF equipment was unreasonable.

Agency Response: RUS agrees that this requirement may be difficult to achieve because there is no organization set up to perform this service. This provision was eliminated.

Comment: McFarland and TEC raised questions about the addition of the inspection agency's designation on the face brand and the use of tags.

Agency Response: This requirement does not add an extra line to the face brand. It replaces the Quality Assurance mark currently required on the second line of the brand. Treaters will be given 6 months from the publication date of this notice to revise their face brands. For treaters using metal tags, if the existing tag cannot be altered to show the independent inspection agency designation a separate tag showing this information shall be added. Metal tag users have three months to start revising their current tags or ordering an additional tags to show the agency information

Comment: Lee Inspection disagrees with the RUS's proposal to not allow one independent inspection agency to subcontract their contracted inspection to another party.

Agency Response: When an Electric Borrower designates an inspection agency to act as their agent and inspect pole on their behalf the RUS believes they actually want that company to do the work. RUS believes that this requirement is reasonable.

Comment: Lee Inspection disagrees with the RUS's stand on not allowing independent inspection agencies to offer product warranties on inspected material.

Agency Response: RUS wants, as a secured lender, to eliminate any appearance of a conflict of interest between independent inspectors and treaters. A product warranty put out by

an inspection agency for a pole or crossarm produced by another company is unacceptable. RUS is not changing this provision.

Comment: Lee Inspection and AWW are concerned with the wording “Failure of a selected third-party inspection agency to properly perform their required overview responsibilities may subject said agency to subsequent liability claims for unsatisfactory or inadequate product performance.”

Agency Response: This specific language will be from the final rule, however, the potential liability incurred by the inspection agency for any improper performance will be left up to the borrower.

Comment: Lee Inspection and AWW felt the frequency of the precision check by independent inspectors for the x-ray fluorescence instrument at treating plant weekly was too onerous.

Agency Response: In some cases this requirement could be too burdensome. In response, the frequency was changed to monthly for analysis of preservative and treated wood at the inspector’s agency laboratory.

Comment: Cox Industrial Group and Dis-Tran wanted to require borrowers to store crossarms under cover to be eligible for the one year warranty.

Agency Response: The conformance period of one year from date of delivery should not be affected if arms are stored indoors, outdoors or installed on poles. As a result, RUS will not change the proposal.

Comment: Timber Products Inspection noted that the radial drilling depths were left off Table 10 in Bulletin 1728F-700.

Agency Response: This information was added back into the bulletin.

Comment: McFarland Cascade questioned the limiting of butt treated poles to arid regions.

AgencyResponse: Since butt treated poles have shown to have good durability in areas other than arid regions the final rule is revised to limit their use to low to moderate decay zones.

Comment: McFarland Cascade and Timber Products questioned allowing through boring for poles were raised.

Agency Response: In response to this, a section on allowing through boring was added.

Comment: WQC suggested that the Insured Warranty program be removed since it has not been used in many years.

AgencyRresponse: This plan for supplying poles has continued to be included to keep several options open for suppliers. There have been a few instances where suppliers have tried to start using this program again.

Comment: WQC suggested that RUS limit the percentage of defects of a “lot” of poles from 15% to 5%, which is the AWPA limit, before the entire lot is rejected.

Agency Response: In response, RUS will revise their reject percentage to stay inline with AWPA Standards.