

## Subpart E—Misuse of Annuity by a Representative Payee

### § 849.501 Misuse of benefits by a representative payee.

(a) It is unlawful for a representative payee to misuse the payments received on behalf of an annuitant. For purposes of this subpart, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment on behalf of an annuitant and embezzles or converts such payment, or any part thereof, to a use other than for the use and benefit of the annuitant.

(b) The penalty for a representative payee found to be in violation of paragraph (a) of this section is a fine, imprisonment for not more than 5 years, or both.

(c) If the agency determines that a representative payee has misused any payments as described in paragraph (a) of this section, the agency will promptly revoke the certification for payment of benefits to the representative payee, and will make payment to an alternative representative payee or, if the interest of the annuitant would be served thereby, to the annuitant.

(d) The agency will make the annuitant whole by repaying any annuity that was misused by the representative payee once the misused benefits have been repaid to the agency by the representative payee.

### § 849.502 Liability for misused funds.

(a) A representative payee who misuses benefits, as determined in § 849.501(a), is responsible for repayment of the misused benefits.

(b) OPM will seek restitution from the former representative payee.

## Subpart F—Changes of the Representative Payee

### § 849.601 When a new representative payee will be selected.

(a) When the agency learns that the interests of the annuitant are not served by continuing payment to the present representative payee or that the present representative payee is no longer able or willing to carry out the payee responsibilities, the agency will undertake to find a new representative payee.

(b) The agency will select a new representative payee if the agency finds a preferred payee or if the present payee:

(1) Has been found by the agency or a court of competent jurisdiction to have misused the benefits;

(2) Has not used the benefit payments on the annuitant's behalf in accordance with the rules in this part;

(3) Has not carried out the other responsibilities described in this subpart;

(4) Dies;

(5) No longer wishes to be the representative payee;

(6) Is unable to manage the benefit payments; or

(7) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information requested by the agency.

(c) The agency may suspend payment as explained in § 849.202(c) if we determine that making direct payment to the annuitant would cause substantial harm. Payments, including all retroactive amounts due, will resume once a representative payee is located.

### § 849.602 When representative payments will be stopped.

If an annuitant demonstrates that he or she is mentally and physically able to manage or direct the management of benefit payments, the agency will make direct payment to the annuitant. Information which the annuitant may give to the agency to support his or her request for direct payment includes, but is not limited to, the following:

(a) A physician's or other licensed health practitioner's statement regarding the annuitant's condition, or a statement by a medical officer of the institution where the annuitant is or was confined, showing that the annuitant is able to manage or direct the management of his or her funds;

(b) A certified copy of a court order restoring the annuitant's rights in a case where an annuitant was adjudged legally incompetent; or

(c) Other evidence which establishes the annuitant's ability to manage or direct the management of benefits.

### § 849.603 Transfer of conserved or accumulated funds.

A representative payee who has conserved or invested annuity payments shall transfer these funds and any interest earned from the invested funds to either a successor payee, to the annuitant, or to the agency as we will specify. If the funds and the earned interest are returned to the agency, we will recertify them to the successor representative payee or to the annuitant.

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### 7 CFR Parts 1728 and 1755

### Standards and Specifications for Timber Products Acceptable for Use by Rural Utilities Service Electric and Telecommunications Borrowers

**AGENCY:** Rural Utilities Service, Department of Agriculture (USDA).

**ACTION:** Final rule; response to comments.

**SUMMARY:** The Rural Utilities Service (RUS), a Rural Development agency of U.S. Department of Agriculture, is issuing a final rule to amend its regulations on Electric and Telecommunications Standards and Specifications for Materials, Equipment and Construction, updates to Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs; Bulletin 1728H-701, Specification for Wood Crossarms, Transmission Timbers, and Pole Keys; and Bulletin 1728H-702, Specification for Quality Control and Inspection of Timber Products (Wood Bulletins) to keep RUS standards current with the technology advances and consistent with the industry practice. This final rule incorporates most of the changes from the final rule; request for comments published on June 18, 2019, in the **Federal Register**. This rule also addresses and takes into consideration public comments received by the Agency regarding regulation changes in the final rule; request for comments on June 18, 2019, as published in the **Federal Register** and, as a result, incorporates updates and modifications to the final rule.

#### DATES:

*Effective date:* This rule is effective October 14, 2021.

*Incorporation by reference:* The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of October 14, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Chendi Zhang, Mechanical Engineer, Engineering Standards Branch, Electric Programs | Rural Utilities Service | Rural Development, U.S. Department of Agriculture, 1400 Independence Ave. SW | Washington, DC 20250-1567 | Phone: 202-690-9032 | email: [Chendi.Zhang@usda.gov](mailto:Chendi.Zhang@usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This final rule is exempt from the Office of Management and Budget (OMB) review for purposes of Executive

Order 12866 and, therefore, has not been reviewed by OMB.

#### **Executive Order 12372**

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A notice of final rule entitled “Department Programs and Activities Excluded from Executive Order 12372,” (50 FR 47034) exempted the Rural Utilities Service loans and loan guarantees from coverage under this order.

#### **Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Rural Utilities Service has determined that this rule meets the applicable standards provided in section 3 of the Executive order. In addition, all state and local laws and regulations that are in conflict with this final rule will be preempted. No retroactive effect will be given to this final rule and in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

#### **Executive Order 13132**

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this final rule does not have sufficient federalism implications to require preparation of a Federalism Assessment.

#### **Regulatory Flexibility Act Certification**

The Rural Utilities Service has determined that the Regulatory Flexibility Act is not applicable to this final rule since USDA Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of the law to publish a notice of proposed rulemaking with request to the subject matter of this rule.

#### **Information Collection and Recordkeeping Requirements**

This final rule contains no new reporting or recordkeeping burdens under OMB control number 0572–0076 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

#### **Assistance Listings (Formerly the Catalog of Federal Domestic Assistance)**

Assistance Listings (formerly the Catalog of Federal Domestic Assistance (CFDA)) are detailed public descriptions of Federal programs that provide grants, loans, scholarships, insurance, and other types of assistance awards. You may browse assistance listings across all government agencies to learn about potential funding sources. The program described by this final rule is detailed in the Assistance Listings under No. 10.850, Rural Electrification Loans and Loan Guarantees. Visit the following website for further information: <https://sam.gov/content/assistance-listings>.

#### **Unfunded Mandates**

This final rule contains no Federal Mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act of 1995 [2 U.S.C. Chapter 25]) for State, local, and tribal governments, or the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

#### **National Environmental Policy Act**

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not “connected” to other actions with potentially significant impacts, is not considered a “cumulative action” and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

#### **USDA Non-Discrimination Statement**

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(1) *Mail*: U.S. Department of Agriculture, Office of Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410,

(2) *Email*: [OAC@usda.gov](mailto:OAC@usda.gov).

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#### **Background**

##### **I. General Discussion**

The Rural Utilities Service maintains bulletins that contain construction standards and specifications for materials and equipment and provide regulated specifications to RUS Electric Program borrowers for procurement of electric transmission and distribution line wood materials. These standards and specifications apply to systems constructed by electric and telecommunications borrowers in accordance with the loan contract, and contain standard construction units, materials, and equipment units used on electric and telecommunications borrowers’ systems. The following bulletins establish standards for the manufacture and inspection of wood utility poles, crossarms and pole keys: Bulletin 1728F–700, “RUS Specification for Wood Poles, Stubs and Anchor Logs” (incorporated by reference at § 1728.97); 7 CFR 1728.201 “Bulletin 1728H–701, Specification for Wood Crossarms (Solid and Laminate), Transmission Timbers, and Pole Keys;” and 7 CFR 1728.202 “Bulletin 1728H–

702, Specification for Quality Control and Inspection of Timber Products.”

## II. Purpose of the Regulatory Action

This final rulemaking adopts most of the changes to Bulletin 1728F-700, “RUS Specification for Wood Poles, Stubs and Anchor Logs” (incorporated by reference at § 1728.97); 7 CFR 1728.201 “Bulletin 1728H-701, Specification for Wood Crossarms (Solid and Laminate), Transmission Timbers, and Pole Keys;” and 7 CFR 1728.202 “Bulletin 1728H-702, Specification for Quality Control and Inspection of Timber Products,” as published in the final rule; request for comments on June 18, 2019 (84 FR 28186), in the **Federal Register**. This final rule also incorporates some of the suggestions received by the Agency through submitted public comments, as well as administrative updates and clarifications based on Agency experience in working with borrowers. A summary of the major changes to these three bulletins are noted in the Agency’s responses to the commenters and Summary of Changes section of this document.

## III. Summary of Comments and Responses

As noted above, the Agency invited comments on the final rule; request for comments published on June 18, 2019, in the **Federal Register** on or before August 2, 2019. The Agency received comments from the following organizations: Treated Wood Council (TWC); North American Wood Pole Council (NAWPC); Viance, LLC, a wood preservative chemical manufacturer; McFarland Cascade a Stella-Jones Company, a producer of utility poles; and Brooks Manufacturing Co., which are summarized as follows:

*Comments and Responses Relevant to Bulletin 1728F-700, “Specification for Wood Poles, Stubs and Anchor Logs (Incorporated by Reference at § 1728.97)”*

**Comment 1:** Two commenters noted that the RUS stated its intent to remove Northern White Cedar from the list of approved species, but one reference to Northern White Cedar in paragraph 8d(1)(b) was not removed.

**Agency Response:** The Agency agrees and in this final rule we removed northern white cedar as an acceptable pole species in that paragraph and also added “Alaska Yellow Cedar.” The use of Alaska Yellow Cedar is a viable choice for poles and crossarms.

**Comment 2:** Three commenters requested that the Agency update all the references to the “latest version of the

American Wood Protection Association (AWPA) Book of Standards” in the Bulletin 1728F-700.

**Agency Response:** The Agency agrees to use the “latest version of the AWPAs Book of Standards” that is available at the time the bulletin is updated.

**Comment 3:** Three commenters asked that RUS should allow shipment of material(s) greater than two years after initial treatment, so long as it has been retreated and reinspected to ensure it continues to meet the RUS specifications.

**Agency Response:** The two-year time is confirmed by a result of survey of industry experts and is a balance of interest of RUS borrowers and pole suppliers.

**Comment 4a:** Four commenters urged RUS to delete references to specific preservatives.

**Agency Response:** In general, the Agency does not agree with deleting references to specific preservatives. However, given that the Ammoniacal Copper Arsenate (ACA) is no longer listed in the AWPAs Standards in Pole Specifications and Crossarm Specifications, the Agency is no longer referencing ACA in Bulletin 1728F-700.

**Comment 4b:** Four commenters asked the Agency to allow RUS Borrowers to choose from “any of the preservatives approved in the AWPAs Standards for the commodities being purchased”.

**Agency Response:** RUS maintains an approved List of Material. For borrowers desiring to use materials that are not on the List, there is a process where approval to use such materials can be requested from RUS on a case-by-case basis. The same process would apply to any AWPAs approved preservative that is not listed in this RUS specification.

RUS reviewed DCOI (Dichloro-2-n-octyl-4-isothiazolin-3) application package and focused on Treatability and field pole stub/post-test. It is determined to include AWPAs approved DCOI in RUS bulletins as a new preservative to address the discontinuation of penta.

**Comment 5:** Three commenters stated that there is no basis for providing compliance to the requirement for sterilization, described as heating the pith center to 150 °F for one hour as the standard; rule concerning heat transfer taking one hour for each inch of diameter has been removed from the specification.

**Agency Response:** The Agency believes that there may be a misunderstanding on how the statement, as published in the final rule that “Heat transfer usually requires 1 hour for each inch of diameter at 150 °F,” has been interpreted. Citing the

statement was not intended to be a requirement but rather included as an informational statement. The Agency’s position is supported by the USDA Agriculture Handbook #40, printed in 1952 and the current ANSI 05.1 pole specification (Paragraph 5.2.1.6), where there is no basis for compliance.

**Comment 6:** Three commenters requested that in addition to a calibrated recording chart, RUS acknowledge that electronic or digital storage of temperatures and pressures during the treating cycle is also acceptable.

**Agency Response:** The Agency agrees and includes the digital storage in this final rule to keep up with the industry practice.

**Comment 7:** Two commenters recommended that the information in the present 8d(3)(b)(3) concerning re-treatment should be removed and be combined with the information in the present 8e(3) as they are presently duplicative.

**Agency Response:** The Agency agrees and in this final rule we removed the duplicated info in 8d(3)(b)(3) and combined with Item 8e(3) in the final rule.

**Comment 8:** Two commenters noted that the tables should be re-numbered to be in a continuous sequence with all references to the tables being adjusted to reflect the changes.

**Agency Response:** The Agency agrees with the commenters and in this final rule we renumbered the tables numbers in a continuous sequence and all references to the tables are updated accordingly.

**Comment 9:** Two commenters noted that the word “cedar” is used in the bulletin without clarifying whether it is Western Red Cedar or Alaskan Yellow Cedar or both.

**Agency Response:** The Agency does not see a need to clarify the word “cedar” when specifications are applicable to both. They are normally not separated from one another during the production process.

**Comment 10:** Three commenters recommended that in Appendix A paragraph 4b(3) Kiln Drying, Red Pine should be added to the species allowed to be dried at above 170 °F.

**Agency Response:** The Agency agrees with the comment and in this final rule we added Red Pine to the species allowed to be dried at above 170 °F in this final rule.

**Comment 11:** Two commenters noted that Table 10, in the middle section should be labeled as “Thermal Process” not “Pressure and Thermal Process.”

**Agency Response:** The Agency agrees and in this final rule we deleted “Pressure and” and keep “Thermal

Process” in the table. Note that the table is now Table 8 after the table renumbering.

*Comment 12:* Two commenters noted that Table 10 in the revised specification has a new Note “M” which concerns a second (inner) assay zone for Douglas Fir transmission poles. There is no footnote M referenced in the body of the table. The assay zone specified in Note M would be the zone 1.0 to 1.5 inches from the surface which disagrees with the requirements found in AWPAT-1 which the RUS specification references. All Douglas Fir transmission poles are required by the RUS specification to be deep incised or radial drilled to 2½ inches in depth and AWPAT would specify the inner assay zone as the zone 2.0 to 2.5 inches from the surface. The requirement in the note to Table 10 is far less stringent than the AWPAT requirements which may indicate an error has been made in Note M. A superscript M should be added to the Douglas Fir line in the Table.

*Agency Response:* In this final rule, the Agency incorporated the corrections of Note M to the Table and an inner assay zone 2.0”–2.5” is used as in the AWPAT. A superscript M is added to the Douglas Fir line in the Table.

*Comment 13:* Two commenters requested that the Poles Framing Guide in Figure 2 should be modified to include the additional holes that are “very frequently” being requested by RUS Borrowers. “RUS should survey the RUS Borrowers to identify the size and placement of these additional holes and add them to the drawing as allowed optional holes. The lack of framing uniformity by the RUS Borrowers makes it impossible to maintain a single reserve treated stock that could be shipped to all RUS Borrowers. Addition of these additional holes to the framing drawing as acceptable optional holes would allow a supplier, at his own expense, to provide the additional holes

on all poles and have them be accepted by all RUS Borrowers.”

*Agency Response:* Most RUS borrowers continue to use standard M-20 framing. At the current time, RUS will not make changes to the M-20 framing pattern nor adding a note, as it would take a codified revision of another bulletin to do so. In the future, should the majority of cooperative borrowers across the country begin requesting special framing, RUS will consider making such a change during the next regulation revision cycle.

*Comment 14:* One commenter noted that additional language on an alternate referee method on ring count is not necessary.

*Agency Response:* Agency disagrees. As an additional volume of lower density timber moves into the pole market, accurate determination of ring count becomes very important. The Agency has added the following ANSI O5.1 language in the rule per the commenter: “For poles that exhibit a non-uniform growth rate around the circumference, the average growth rate shall be determined at the midpoint of the shortest arc between the point showing the fewest growth rings in the required zone and the point showing the most growth rings in the required zone.”

*Comments and Responses Relevant to 7 CFR 1728.201, Bulletin 1728F-701, Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys*

*Comment 1:* Three commenters noted that the word “round” should be changed back to the original word “sound” in the appropriate places.

*Agency Response:* The typo is corrected, and the word “sound” replaced the word “round” to correct the typo.

*Comment 2:* Three commenters requested that die-stamping must be returned as an allowable means to mark crossarms as the largest crossarm

manufacturer no longer burn brands the arms due to fire safety issues in the plant.

*Agency Response:* The Agency agrees and in this final rule added back in two places Die-stamping, however, Dye-stamping is not allowed as it will not last long (<18 months).

*Comment 3:* Four commenters asked to allow RUS Borrowers to choose from “any of the preservatives approved in the AWPAT Standards for the commodities being purchased”.

*Agency Response:* RUS maintains an approved List of Materials. For borrowers desiring to use materials that are not on the List, there is a process where approval to use such materials can be requested from RUS on a case-by-case basis. The same process would apply to any AWPAT approved preservative that is not listed in this RUS specification. RUS reviewed DCOI application package focusing on Treatability and field pole stub/post-test and determined to include AWPAT approved DCOI in RUS bulletins as a new preservative to address the discontinuation of Pentachlorophenol (penta).

*Comments and Responses Relevant Only 7 CFR 1728.202, Bulletin 1728H-702, Specification for Quality Control and Inspection of Timber Products*

*Comment 1:* Two commenters noted that the referee methods shown in Table 1 to Paragraph (b)(10) do not agree in all cases with the referee methods shown in AWPAT Standard A15-19.

*Agency Response:* The listing of X-ray spectroscopy as the referee method for water-borne preservatives instead of the previous wet ash chemistry method was due to the complexity of the method itself and the fact that few companies currently have the necessary experience or facilities required to run a wet ash. The Agency in this final rule revised the table as follows, which includes the methods for DCOI:

Preservative	Analytical method	Referee method
Pentachlorophenol .....	XRF, Lime Ignition, Copper Pyridine .....	Lime Ignition, Copper Pyridine.
Creosote .....	Toluene Extraction .....	Toluene Extraction.
Waterborne .....	XRF .....	XRF.
Copper Naphthenate .....	XRF .....	ICP, GC.
DCOI .....	XRF, HPLC .....	HPLC.

XRF—X-ray fluorescence.  
HPLC—High Performance Liquid Chromatography.  
ICP—Inductively coupled plasma.  
GC—Gas Chromatography.

*Comment 2:* Two commenters requested to allow the use of a set of graduated treated wood samples for calibration of an XRF used for penta

analysis. Table 1 to Paragraph (b)(10) should be amended to show XRF also as an allowable method for penta and the text should be amended to add AWPAT

A9 to the present reference to AWPAT A83.

*Agency Response:* A change is made to allow the use of a set of graduated

treated wood samples for calibration of an XRF used for penta analysis. The Agency wants to note that this is for calibration of XRF units and does not relieve the inspection agencies from the requirement that they maintain laboratories that are properly equipped to run the listed referee methods. As listed in the table above, XRF will be an allowable method for penta. "AWPA A83" in the paragraph will be replaced with "AWPA A83 or AWPA A9".

#### IV. Summary of Changes

In addition to the final rule changes published in the **Federal Register** on June 18, 2019, the following is a summary of other changes to these three bulletins as a result of public comments and Agency clarifications:

1. All references cited in these bulletins are updated to the latest edition in 7 CFR 1728.201, Bulletin 1728H-701 and 1728.202 Bulletin 1728H-702 or "the latest version" is used in Bulletin 1724F-700 (incorporated by reference at § 1728.97).

2. AWPA approved 4,5 Dichloro-2-n-octyl-4-isothiazolin-3 one (DCOI) is included in 1728F-700 (incorporated by reference at § 1728.97), 7 CFR 1728.201 Bulletin 1728H-701, and 7 CFR 1728.202 Bulletin 1728H-702 as a new preservative to address the discontinuation of Pentachlorophenol, another preservative.

3. AWPA A30-18, Standard Method for the Determination of 4,5 Dichloro-2-n-octyl-4-isothiazolin-3 one (DCOI) in Wood and Solutions by High Performance Liquid Chromatography, is incorporated by reference in § 1728.97 to support the inclusion of DCOI as a RUS approved preservative in Bulletin 1724F-700 (incorporated by reference at § 1728.97) and 7 CFR 1728.202 Bulletin 1728H-702.

4. ANSI O5.1 language on ring count is added as an alternate referee method to determine a non-uniform growth rate in Bulletin 1728F-700.

5. Table 8 in Bulletin 1728F-700 is updated to be consistent with the upcoming AWPA Standards, 2021.

6. An Analytical Method column is added in Table 1 to Paragraph (b)(10) for those preservatives in 7 CFR 1728.202 Bulletin 1728F-702.

7. In Bulletin 1728F-700, Section 8.d.(3).(a), to clarify the dimension from (b) For Group B poles (Those poles with a circumference of more than 37.5 inches at 6 feet from butt); will now read (b) For Group B poles (Those poles with a circumference of 37.5 inches or greater at 6 feet from butt).

8. In 7 CFR 1728.202 Bulletin 1728H-702, a supplemental correction is made to include a paragraph on quality marks

on crossarms. This is not a new requirement. The quality marks have been applied as an industry practice. The paragraphs in Section (g), have been renumbered with the addition of a new clarifying paragraph below.

"Third-party inspectors shall verify their acceptance of untreated crossarms that have been offered by the producer as conforming by marking each accepted piece in one end with a clear, legible hammer stamp. Following treatment, inspectors shall verify their acceptance of treated crossarms that have been offered by the producer as conforming by marking each accepted piece in the opposing end with a clear, legible hammer stamp. The inspector shall personally mark each piece for acceptance and shall not delegate this responsibility to any other individual."

9. Changes relevant to Bulletin 1728F-700 (incorporated by reference at § 1728.97), 7 CFR 1728.201 Bulletin 1728H-701, and 7 CFR 1728.202 Bulletin 1728H-702:

Specifications requiring that all third-party agencies involved in the inspection of RUS products must, on an annual basis, provide RUS Technical Standards Committee "A" with proof that the agency does have: (1) The required insurance coverage, and (2) the required, fully equipped laboratory capable of running each of the referee methods of analysis.

While these two requirements themselves are not new, providing proof of such to RUS on an annual basis is new. The reason for making this change is that in recent years, there apparently have been several instances where third-party agencies involved in RUS inspection did not have the required insurance or the required lab facilities. Given that RUS currently does not have the ability to provide an active overview of these third-party agencies, this change simply provides RUS with a method for checking the basic legitimacy of any company involved in the inspection of RUS treated wood products. It also provides both RUS and the cooperative borrower with some possible source of fiscal recovery if problems with product service in line can be traced back to performance issues involving the third-party agency being utilized.

#### Incorporation by Reference

Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs. This specification describes the minimum acceptable quality of wood poles, stubs, telephone pedestal stubs, and anchor logs (hereinafter called poles, except where specifically referred to as stubs or

anchor logs) purchased by or for RUS borrowers. The requirements of this specification implement contractual provisions between RUS and borrowers receiving financial assistance from RUS.

RUS provides free online public access to view and download copies of Bulletin 1728-F 700. The RUS website to view and download this bulletin is: <https://www.rd.usda.gov/resources/regulations/bulletins>.

ANSI O5.2-2020, Structural Glued Laminated Timber for Utility Structures, covers requirements for manufacturing and quality control of structural glued laminated timber of Southern Pine, Coastal Region Douglas Fir, Hem Fir and other species of similar treatability for electric power and communication structures.

ANSI standards are reasonably available to obtain by calling 212-642-4980 or by online access at their web address: <https://webstore.ansi.org/> for a fee. ANSI O5.2-2020 is also available for a fee in ANSI O5.—Wood Poles Package.

AWPA A6-20, Method for the Determination of Oil-Type Preservatives and Water in Wood. This method is suitable for the determination of creosote, petroleum, and their solutions in treated wood when the sample contains at least 5.0 grams of wood and one gram of oil. Preservatives, such as copper naphthenate, or pentachlorophenol or DCOI, may not be quantitatively extracted by this method. The method can also be used for the determination of water in treated or untreated wood, but when it is so used, the directions on handling the sample in Standard M2 must be followed carefully.

AWPA A9-20, Standard Method for Analysis of Treated Wood and Treating Solutions By X-Ray Spectroscopy. This method provides for the non-destructive analysis of treated wood and treating solutions by X-ray fluorescence spectroscopy and is applicable to the determination of elements of atomic number 5 or higher that are present in significant quantity in the wood (usually above 0.05%). The elements covered in this method are specified for use in preservative and fire-retardant treatment of wood.

AWPA A15-19, Referee Methods. Referee methods are given to assist in the resolution of disputes over the acceptability of the active(s) in treated wood products.

AWPA A30-18, Standard Method for the Determination of 4,5 Dichloro-2-n-octyl-4-isothiazolin-3 one (DCOI) in Wood and Solutions by High Performance Liquid Chromatography. This describes the method useful for the

chemical analysis of DCOI in wood and solutions.

AWPA A69–18, Standard Method to Determine the Penetration of Copper Containing Preservatives, is employed to determine the penetration depth of copper containing preservatives into treated wood to decide whether the treated product meets acceptance levels as prescribed in treatment standards.

AWPA A70–18, Standard Method to Determine the Penetration of Pentachlorophenol Using a Silver-Copper Complex Known as Penta-Check. This standard is employed to determine the penetration depth of pentachlorophenol containing preservatives where the wood has been treated with pentachlorophenol dissolved in light-colored Hydrocarbon Solvent Type A or Hydrocarbon Type C of AWPA Standard P9 into treated wood to decide whether the treated product meets acceptance levels as prescribed in treatment standards.

AWPA A71–18, Standard Methods for Determining Penetration of Solvent Used with Oil-Soluble Preservatives. This standard is provided exclusively for determining the penetration of oil-soluble organic biocides in wood where the wood has been treated with the oil-soluble organic biocide dissolved in light-colored Hydrocarbon Solvent Type A of AWPA Standard P9.

AWPA M2–19, Standard for the Inspection of Preservative Treated Products for Industrial Use. This Standard provides procedures for inspection at wood preserving plants of industrial products including but not limited to poles, crossarms, piling, ties, timbers, round posts and composite wood products. This Standard also contains detailed procedures and test methods for determining the conformance of treated wood products with specified standards or other written product quality specifications.

AWPA T1–20, Use Category System: Processing and Treatment Standard. This Processing and Treatment Standard contains the minimum requirements and process limitations for treating wood products under the AWPA Standards. This includes conditioning of material for treatment, treatment processes and limitations, end-results of treatment, post treatment handling, and quality control applicable to all commodities treated under the AWPA Use Category System.

AWPA U1–20, Use Category System: User Specification for Treated Wood. The Use Category System (UCS) of the American Wood Protection Association (AWPA) designates what preservative systems and retentions have been determined to be effective in protecting

wood products under specified exposure conditions.

AWPA standards are reasonably available to obtain for a fee by calling 1–855–999–9870 or by online access at the web address: [https://www.techstreet.com/standards/awpa-book-2020?product\\_id=2110160%20h](https://www.techstreet.com/standards/awpa-book-2020?product_id=2110160%20h) for a fee. AWPA standards are also available for a fee in 2020–AWPA Book of Standards at <https://awpa.com/standards>.

AWPA A83–18, which appears in the regulatory text, was previously approved for § 1728.202 June 18, 2019.

## List of Subjects

### 7 CFR Part 1728

Electric power, Incorporation by reference, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

### 7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is amended as follows:

## PART 1728—ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

■ 1. The authority citation for part 1728 continues to read as follows:

**Authority:** 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

■ 2. Amend § 1728.97 by:

- a. In the introductory text, remove the text “call (202) 741–6030” and add in its place the text “email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov)”; and
- b. Revising paragraphs (a)(21), (c)(1), and (e).

The revisions read as follows:

### § 1728.97 Incorporation by reference of electric standards and specifications.

\* \* \* \* \*

(a) \* \* \*

(21) Bulletin 1728F–700, RUS Specification for Wood Poles, Stubs and Anchor Logs, September 9, 2021, incorporation approved for §§ 1728.98 and 1728.202.

\* \* \* \* \*

(c) \* \* \*

(1) ANSI O5.2–2020, Structural Glued Laminated Timber for Utility Structures, approved January 10, 2020, incorporation by reference approved for §§ 1728.201 and 1728.202.

\* \* \* \* \*

(e) American Wood Protection Association (AWPA), P.O. Box 361784,

Birmingham, AL 35236–1784, telephone 205–733–4077, [www.awpa.com](http://www.awpa.com).

(1) AWPA A6–20, Standard for the Determination of Retention of Oil-Type Preservatives from Small Samples, Revised 2020, incorporation by reference approved for § 1728.202.

(2) AWPA A9–20, Standard Method for Analysis of Treated Wood and Treating Solutions By X-Ray Spectroscopy, Revised 2020, incorporation by reference approved for § 1728.202.

(3) AWPA A15–19, Referee Methods, Revised 2019, incorporation by reference approved for § 1728.202.

(4) AWPA A30–18, Standard Method for the Determination of 4,5 Dichloro-2-n-octyl-4-isothiazolin-3 one (DCOI) in Wood and Solutions by High Performance Liquid Chromatography (HPLC), Revised 2018, incorporation by reference approved for § 1728.202.

(5) AWPA A69–18, Standard Method to Determine the Penetration of Copper Containing Preservatives, Reaffirmed 2018, incorporation by reference approved for § 1728.202.

(6) AWPA A70–18, Standard Method to Determine the Penetration of Pentachlorophenol Using a Silver-Copper Complex Known as Penta-Check, Reaffirmed in 2018, incorporation by reference approved for § 1728.202.

(7) AWPA A71–18, Standard Method to Determine the Penetration of Solvent Used with Oil-Soluble Preservatives, Reaffirmed 2018, incorporation by reference approved for § 1728.202.

(8) AWPA A83–18, Standard Method for Determination of Chloride for Calculating Pentachlorophenol in Solution or Wood, Reaffirmed 2018, incorporation by reference approved for § 1728.202.

(9) AWPA M2–19, Standard for the Inspection of Preservative Treated Products for Industrial Use, Revised 2019, incorporation by reference approved for § 1728.202.

(10) AWPA T1–20, Use Category System: Processing and Treatment Standard, Revised 2020, incorporation by reference § 1728.201.

(11) AWPA U1–20, Use Category System: User Specification for Treated Wood, Revised 2020, incorporation by reference approved for §§ 1728.201 and 1728.202.

\* \* \* \* \*

■ 3. Amend § 1728.98 by revising paragraph (a)(21) to read as follows:

### § 1728.98 Electric standards and specifications.

(a) \* \* \*

(21) Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs, September 9, 2021.

\* \* \* \* \*

■ 4. Amend § 1728.201 by:

■ a. Adding paragraph (b)(11);

■ b. Revising paragraphs (d)(3)

introductory text, (d)(3)(i), (h)(1),

(i)(2)(ii), and (j)(4)(ii);

■ c. Adding paragraph (j)(4)(v); and

■ d. Revising paragraphs (k)(1), (k)(3) introductory text, and (k)(3)(iv) and (v).

The additions and revisions read as follows:

**§ 1728.201 Bulletin 1728H-701, Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys.**

\* \* \* \* \*

(b) \* \* \*

(11) Arm producers shall have and maintain liability insurance in the amount of \$1 million. Evidence of

compliance to this requirement shall be forwarded to the RUS annually. The evidence shall be in the form of a certificate of insurance or a bond signed by a representative of the insurance company or Surety Bonding company and include a provision that no change in, or cancellation of, will be made without the prior written notice to the Chairman, Technical Standards Committee "A" (Electric), 1400 Independence Ave. SW, Stop 1569, Washington, DC 20250-1569.

\* \* \* \* \*

(d) \* \* \*

(3) *Knots*. Well-spaced sound, firm, and tight knots are permitted.

(i) Slightly decayed knots are permitted, except on the top face, provided the decay extends no more than  $\frac{3}{4}$  of an inch into the knot and provided the cavities will drain water when the arm is installed. For knots to be considered well-spaced, the sum of

the sizes of all knots in any 6 inches of length of a piece shall not exceed twice the size of the largest knot permitted.

More than one knot of maximum permissible size shall not be in the same 6 inches of length. Slightly decayed, firm, or sound "pin knots" ( $\frac{3}{8}$  of an inch or less) are not considered in size, spacing, or zone considerations.

\* \* \* \* \*

(h) \* \* \*

(1) Creosote, water-borne preservatives, pentachlorophenol, DCOI, and copper naphthenate shall conform to the requirements of AWP A U1 (incorporated by reference at § 1728.97). Oxide formulations of waterborne preservatives shall be supplied. If CCA is the selected preservative, CCA-C shall be the type required.

\* \* \* \* \*

(i) \* \* \*

(2) \* \* \*

	Max. time (hours)	Temperature
(ii) Heating in Preservative .....	3	210 °F

\* \* \* \* \*

(j) \* \* \*

(4) \* \* \*

Preservative	Retention (pcf)
(ii) Pentachlorophenol .....	1 0.4/0.36
(v) DCOI .....	0.13

<sup>1</sup>If the copper pyridine method is used when timbers may have been in contact with salt water, a penta retention of 0.36 pcf is required for all species native to the Pacific Coast region.

\* \* \* \* \*

(k) \* \* \*

(1) Before treatment, arms shall be legibly branded (hot brand) or die-stamped to a depth of approximately  $\frac{1}{16}$  of an inch, with the top of the brand oriented to the top of the arm. The brand shall be placed on either of the wide surfaces of the arm, approximately one foot from the midpoint of the piece.

\* \* \* \* \*

(3) The brand or die-stamp shall include:

\* \* \* \* \*

(iv) Preservative (C for creosote, DA for DCOI, PA for penta, SK for CCA, SZ for ACZA, N for Copper Naphthenate); and

(v) Required retention. An example of required retention is: M-6-16 Manufacturer—Month—Year and DF-PA-4 Douglas-fir—penta treated—.40 pcf retention.

\* \* \* \* \*

■ 5. Amend § 1728.202 by:

■ a. Revising paragraphs (b)(10) and (d);

■ b. In paragraph (e)(5):

■ i. Removing the superscript "1" in the fifth table heading; and

■ ii. Redesignating footnote 1 to table 2 as note 2 to table 2 and revising newly redesignated note 2;

■ c. Revising paragraph (e)(7); and

■ d. Redesignating paragraph (g)(2) as paragraph (g)(3) and adding a new paragraph (g)(2).

The revisions and addition read as follows:

**§ 1728.202 Bulletin 1728H-702, Specification for Quality Control and Inspection of Timber Products.**

\* \* \* \* \*

(b) \* \* \*

(10) Inspection agencies shall maintain their own properly equipped

laboratory that, at a minimum, is able to run the referee methods listed in table 1 to this paragraph (b)(10) for retention analysis for all preservatives being inspected. This laboratory shall be independent from any treating plant laboratory. Inspection Agencies may use one central laboratory. All XRF units maintained by third party inspection agencies as part of their RUS required laboratories shall be calibrated at least quarterly by said agency utilizing the referee method for each preservative treatment being analyzed or via comparison with a set of graduated treated wood standards. Each agency shall keep an up-to-date written record of these quarterly calibration results. AWP A 83 or AWP A 9 (incorporated by reference at § 1728.97) shall be followed for Pentachlorophenol testing, AWP A-30 or AWP A 9 (incorporated by reference at § 1728.97) shall be followed for DCOI testing, AWP A 6 (incorporated by reference at § 1728.97) shall be followed for Creosote testing, and AWP A 9 (incorporated by reference at § 1728.97) shall be followed for XRF, as illustrated in the following table:

TABLE 1 TO PARAGRAPH (b)(10)

Preservative	Analytical method	Referee method
Pentachlorophenol .....	XRF, Lime Ignition, Copper Pyridine .....	Lime Ignition, Copper Pyridine.
Creosote .....	Toluene Extraction .....	Toluene Extraction.
Waterborne .....	XRF .....	XRF.
Copper Naphthenate .....	XRF .....	ICP, GC.
DCOI .....	XRF, HPLC .....	HPLC.

**Note 1 to table 1 to paragraph (b)(10):** XFR means X-ray fluorescence; HPLC means High Performance Liquid Chromatography; ICP means Inductively coupled plasma; and GC means Gas Chromatography.

\* \* \* \* \*

(d) *Preservatives.* Creosote, waterborne preservatives, pentachlorophenol, DCOI, and copper naphthenate shall conform to current AWP A U1 (incorporated by reference in § 1728.97).

(e) \* \* \*

(5) \* \* \*

**Note 2 to table 2 to paragraph (e)(5):**

Retention and penetration requirements for each different species and preservative are listed in Table 8 of Appendix A, RUS Bulletin 1728F-700, Specification for Wood Poles, Stubs and Anchor Logs (incorporated by reference at § 1728.97).

\* \* \* \* \*

(7) Penetration compliance of both poles and crossarms shall be determined in accordance with the standard AWP A A15 (incorporated by reference at § 1728.97). Chrome Azurol S shall be used to determine the penetration of copper containing preservatives AWP A A69 (incorporated by reference at § 1728.97), Penta-Check shall be used to determine the penetration of penta

AWPA A70 (incorporated by reference at § 1728.97), and Red-O dye for penetration of DCOI AWP A A71 (incorporated by reference at § 1728.97), respectively.

\* \* \* \* \*

(g) \* \* \*

(2) Third-party inspectors shall verify their acceptance of untreated crossarms that have been offered by the producer as conforming by marking each accepted piece in one end with a clear, legible hammer stamp. Following treatment, inspectors shall verify their acceptance of treated crossarms that have been offered by the producer as conforming by marking each accepted piece in the opposing end with a clear, legible hammer stamp. The inspector shall personally mark each piece for acceptance and shall not delegate this responsibility to any other individual.

\* \* \* \* \*

**PART 1755—TELECOMMUNICATIONS POLICIES ON SPECIFICATIONS, ACCEPTABLE MATERIALS, AND STANDARD CONTRACT FORMS**

■ 6. The authority citation for part 1755 continues to read as follows:

**Authority:** 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

■ 7. Amend § 1755.97 by revising paragraph (b)(13) to read as follows:

**§ 1755.97 Telephone standards and specifications.**

\* \* \* \* \*

(b) \* \* \*

(13) Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs, September 9, 2021.

\* \* \* \* \*

■ 8. Amend § 1755.98 by revising paragraph (a) to read as follows:

**§ 1755.98 List of telecommunications specifications included in other 7 CFR parts.**

\* \* \* \* \*

Section	Issue date	Title
(a) 1728.202 .....	9.9.2021	RUS Specification for Quality Control and Inspection of Timber Products.
* * * * *	* * * * *	* * * * *

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2021-22255 Filed 10-13-21; 8:45 am]

BILLING CODE 3410-15-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2021-0569; Project Identifier MCAI-2020-01692-T; Amendment 39-21752; AD 2021-20-14]

RIN 2120-AA64

**Airworthiness Directives; Dassault Aviation Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 7X, FALCON 900EX, and FALCON 2000EX

airplanes. This AD was prompted by a report of a manufacturing issue involving misalignment of a cabin seat pin and plate that can prevent the recline locking mechanism from properly engaging when the seat is in taxi, take-off, or landing position. This AD requires an inspection of certain cabin seats for discrepancies and corrective action, as specified in European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2021.

The Director of the Federal Register approved the incorporation by reference