

Non-Hazardous Secondary Materials Rule: EPA Adds Three Materials to the List of Categorical Non-Waste Fuels



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Arkansas Environmental, Energy, and Water Law Blog

02/18/2016

The United States Environmental Protection Agency (“EPA”) in a Federal Register Notice amended the Non-Hazardous Secondary Materials rule (“NHSM Rule”) adding three materials to the list of categorical non-waste fuels. See 81 Fed. Reg. 6688.

The three materials added to the list of categorical non-waste fuels include:

- Construction and demolition wood processed from construction and demolition debris according to best management practices
- Paper recycling residuals generated from the recycling of recovered paper, paper board and corrugated containers and combusted by paper recycling mills whose boilers are designed to burn solid fuel
- Creosote treated railroad ties that are processed and then combusted in the following types of units:
- Units designed to burn both biomass and fuel oil as part of normal operations and not solely as part of start-up or shut-down operations
- Units at major source pulp and paper mills or power producers subject to 40 CFR part 63, subpart DDDDD that combust CTRT and had been designed to burn biomass and fuel oil, but are modified (e.g. oil delivery mechanisms are removed) in order to use natural gas instead of fuel oil, as part of normal operations and not solely as part of start-up or shut-down operations

The federal NHSM Rule generally establishes standards and procedures for identifying whether non-hazardous secondary materials are solid waste when used as fuel or ingredients in combustion units.

EPA listed in the February 2013 amendments particular non-hazardous secondary materials as “categorical non-waste fuels” providing certain conditions are met. This is an important designation because persons burning such non-hazardous secondary materials do not need to evaluate them under the general case-by-case standards and procedures that would otherwise apply to non-hazardous secondary materials used in combustion units.

A link to the Federal Register Notice can be found here

[https://www.federalregister.gov/articles/2016/02/08/2016-01866/additions-to-list-of-categorical-non-waste-fuels.](https://www.federalregister.gov/articles/2016/02/08/2016-01866/additions-to-list-of-categorical-non-waste-fuels)