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August 3, 2010

Proposed Rulemaking – Identification of Non-Hazardous Secondary Materials That Are Solid Waste  
EPA/DC  
EPA West, Room 3334  
1301 Constitution Ave., NW  
Washington, D.C. 20460

**Re: Comments on Proposed Rulemaking – Identification of Non-Hazardous Secondary Materials That Are Solid Waste  
Docket ID No. EPA-HQ-RCRA-2008-0329**

To Whom It May Concern:

The Pellet Fuels Institute (PFI) appreciates the opportunity to provide comments to the EPA regarding the proposed rule on the Identification of Non-Hazardous Secondary Materials That Are Solid Waste – 40 CFR Part 241.

PFI is a non-profit trade association that serves the pellet industry, which is comprised of pellet mills, pellet appliance manufacturers and industry suppliers. We are writing specifically on behalf of pellet mills. As of 2009, pellet manufacturing directly employs approximately 2,300 people in the U.S. and supports thousands of industry-related jobs in fields such as transportation and logging. In addition, there are an estimated 1,000,000 residences/businesses in the U.S. currently heating with pellets.

The Pellet Fuels Institute supports President Obama's commitment to reduce our nation's reliance on foreign oil, to promote and expand our renewable energy technologies, and a number of elements outlined in EPA's proposed rule. However, this commitment is severely contradicted by the alternative approach set forth in this proposed rulemaking.

PFI's comments are organized under sectional headings of the proposed rule as follows:

**Definition of Biomass**

PFI agrees with the EPA's clean biomass definition which includes: forest-derived biomass (e.g., green wood, forest thinnings, clean and unadulterated bark, sawdust, trim, and tree harvesting residuals from logging and sawmill materials); corn stover and other biomass crops used specifically for energy production; bagasse and other crop residues

(e.g., peanut shells, agricultural seeds); wood collected from forest fire clearance activities; trees and clean wood found in disaster debris; and clean biomass from land clearing operations. All of the aforementioned forms of biomass are, and should continue to be, traditional fuels meant to be put to beneficial use and should not be classified as solid waste under this proposed rule. Further, EPA's definition of biomass comports with other definitions utilized by the Department of Energy, Department of the Interior, the United States Department of Agriculture, and other federal agencies and should not be limited in any way in this proposed rule. We have included a similar definition/concept into our standards program (Attachment 1 – Pellet Fuels Institute, Residential/Commercial Densified Fuel, QA/QC Handbook).

### **Secondary Materials**

PFI supports EPA's contention that secondary biomass materials are more appropriately defined as "by-products," reflecting their inherent resource recovery value in the generation and production of heat, energy, and/or marketable products. Pellets produced from secondary biomass materials are a prime example of this definition. Pellet mills use secondary biomass materials as *the primary* ingredient in the pelletizing process. As such, all secondary biomass materials (wet and dry), which includes but is not limited to mill residues, chips, shavings and other by-products should be classified as a traditional fuel.

### **Definition of Processing – Pelletizing Process**

In the proposed rule, EPA states that if a non-hazardous secondary material is processed into a legitimate fuel or ingredient product, then the processed material would not be a discarded material. PFI supports this assertion.

The pelletizing process clearly transforms non-hazardous secondary biomass materials into a new fuel that also significantly improves the fuel characteristics of the secondary biomass material. Pellet manufacturers take secondary biomass materials and refine them into pellets that are uniform in size, shape, moisture, density and energy content. Pellets go through a full range of manufacturing processes which can involve debarking, chipping, drying, and hammermilling. Basically, pellets are produced by putting biomass through a hammer mill which reduces the particle size yielding a uniform sized biomass fiber. The biomass is then fed through a pellet mill where it is forced through a die producing a pellet to the required specifications. The high pressure of the press causes the temperature of the wood to significantly increase, and the natural lignin in the wood binds the pellet together as it cools. Because the wood fibers are broken down by the hammer mill, there is little to no difference in the finished pellets between different wood types. Finally, the finished product is bagged or shipped in bulk to market. There is no question that the pelletizing process is an adequate manufacturing process and should be viewed as such.

### **Legitimacy Criteria**

In the proposed rule the following legitimacy criteria was laid out for fuel products that are used in combustion processes: (1) Handled as valuable commodities; (2) have meaningful heating value; (3) and contain contaminants that are not significantly higher

in concentration than traditional fuel products. In addition, for ingredients (secondary biomass materials), the proposed rule listed the following criteria: (1) Handled as a valuable commodity; (2) the non-hazardous secondary material provides a useful contribution; (3) the recycling results in a valuable product; and (4) the product does not contain contaminants that are significantly higher in concentration than traditional products.

#### Handled As Valuable Commodities/Recycling Results In A Valuable Product

Biomass is a valuable product in whatever form it takes and is essential to the pelletizing process. Pellet mills purchase various forms of biomass to manufacture pellets. Biomass is the primary ingredient from which pellets are made through an industrial process. EPA indicated that a product or intermediate is valuable if it is (i) sold to a third party or (ii) used by the recycler or generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process. Attachment 2 (Invoices for the purchase of biomass) is a series of invoices that establish the terms of the sale or transaction of the biomass which proves its value and meets EPA's criteria. PFI believes this is an appropriate means to consider this criterion.

#### Have Meaningful Heating Value

Biomass that is pelletized has a meaningful heating value and is used as a fuel in a combustion unit that recovers energy. Pellets are used specifically for energy recovery in a number of devices. They can be used for power generation (electricity) or for heating applications (thermal energy). Pellets and the ingredients that go into making them have a specific end use. Attachment 3 (Twin Ports Testing Document on Fuel Values and Contaminant Levels of Biomass) confirms that biomass materials have meaningful heating value by illustrating that the biomass with the least BTU value is still close to the 5,000 BTU/lb criteria. However, once it is dried and pelletized, the BTU values drastically climb well above the 5,000 BTU/lb threshold which satisfies this criterion. Additionally, PFI agrees that it is appropriate to allow a person to demonstrate that a meaningful heating value is derived from the non-hazardous secondary material if the energy recovery unit can cost-effectively recover meaningful energy from the non-hazardous secondary materials used as fuels.

#### Contain Contaminants That Are Not Significantly Higher In Concentration Than Traditional Fuel Products

With the exception of the deposition of atmospheric dusts, woody biomass is, for the most part, considered clean (uncontaminated material). The residues created by processing are also considered clean unless they have been chemically treated in any manner. The vast majority of pelletized fuel production comes from materials that fit this description. As shown in Attachment 3, wood that has been chemically treated is specifically prohibited for use by PFI's densified fuel certification program, as are feedstock materials with a high level of probability of contamination (including construction waste debris, pallets, and post consumer recycled wood). There are some situations in which contamination can be incidental. Situations that have been historically observed include contact with sea water (salt water) along coastal regions and

contact with salt in northern regions where chloride based salts are applied to roads for the purpose of melting ice in the winter months.

#### The Non-Hazardous Secondary Material Provides A Useful Contribution

Secondary biomass materials are essential to the pelletizing process. Without these valuable secondary biomass materials, a production/manufacturing process would not exist. With this being said, it is obvious that secondary biomass materials provide a useful contribution to the pelletizing process and to the finished fuel product.

#### **Alternative Approach**

**The alternative approach in the proposed rule will effectively kill the pellet industry.**

By classifying secondary biomass materials and products as solid waste, the pellet industry, which has been operating and providing fuel for home heating for decades, will be finished.

Under the alternative approach, secondary biomass materials and the pellets produced from it would be classified as solid waste because the ingredients to make pellets are not under the control of the generator. That is, the secondary biomass materials utilized by the pellet industry are purchased from other entities so they can be made into renewable fuel for thermal energy. Pellet mills take these traditional forms of fuel (secondary biomass materials) and turn them into useable energy for heating or power generation through a continuous industrial process. However, since the materials are outside the control of the generator and sold to pellet mills, they are solid waste and the pellets produced would be as well. If this alternative approach is adopted the EPA will single handedly cause the loss of thousands of jobs, detrimentally effect numerous rural economies where most pellet mills are located, and could leave almost 1,000,000 American homes without fuel for heat.

In addition, this alternative approach will negatively affect other proposed and existing rules on which EPA and other Federal Agencies are currently working. The National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters (*Major Source Boiler MACT*), 75 Fed. Reg. 32,006; National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (*Area Source Boiler Rule*), 75 Fed. Reg. 31,896; and the reopening of the Standards of Performance for New Stationary Sources (*NSPS*) 40 CFR Part 60 for New Residential Wood Heaters will drastically be altered if this alternative approach is implemented since they all deal with the combustion of biomass for heat and energy. Further, the United States Department of Agriculture's and the Farm Service Agency's proposed rule on the Biomass Crop Assistance Program (*BCAP*) which provides financial assistance to producers or entities that *deliver eligible biomass material to designated biomass conversion facilities for use as heat, power, biobased products or biofuels* will be negated because the premise of this alternative approach is to make all materials outside the control of the generator a solid waste.

It is extremely important to note that the Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units (*CISWI Rule*), 75 Fed. Reg. 31,938 will drastically expand in scope since numerous biomass stoves and boilers will become incinerators if biomass is classified as solid waste. There are well over 1 million pellet stoves and boilers being used in residences, commercial, and institutional applications in the US that could now fall under the proposed CISWI rule if this alternative approach is adopted and would in essence make them inoperable. This would severely damage, if not decimate, the pellet stove and boiler industry.

Further, the alternative approach can also negatively impact state and potential federal renewable portfolio standards (more than 25 states have them in place currently) because it will disqualify biomass as a renewable feedstock. Many utilities are considering using biomass for power generation because biomass is a renewable and sustainable fuel. If this alternative approach is adopted many utilities will be forced to burn more fossil fuels or be required to purchase more expensive wind and/or solar energy, the costs of which will be borne by the customer.

The pellet industry generates approximately 3 to 4 million tons of pellets a year. If this alternative approach is implemented, the vast majority of this biomass that is used to produce these pellets would have to be disposed of in an incinerator or sent to a landfill. The intent of this proposed rule is not to add more volume to an already overcrowded landfill system, especially when there is a beneficial renewable energy product that could be produced.

Another problem with the alternative approach will be its impact on other biomass industries. Sawmills, cabinet and flooring companies, and similar operations that sell biomass are already being hurt by the downturn in the economy and the housing market. If this alternative approach is adopted it will compound their predicament, as they may not be able to sell their secondary biomass materials to others to be put to beneficial use as renewable energy, traditional recycling, or other applications, and many may not be able to sustain their business operations.

As outlined in these comments, secondary materials, specifically biomass, should NOT be classified as solid waste. These secondary biomass materials pass the legitimacy criteria (Attachment 3) and are processed into a traditional fuel. Pellet mills reuse this biomass to manufacture pellets. Classifying them as solid waste because they are not under the control of the generator (they were purchased from the generator thus making them a valuable commodity) runs counter to recycling and reuse principles and operations.

All the unintended consequences of this alternative approach should be sufficient enough for the EPA to abandon this reckless undertaking. The alternative approach outlined by EPA is nothing short of harmful. The collateral damage to numerous industries will result in more job losses and economic distress, especially in the rural parts of the country.

Thank you for your consideration of these comments. Please contact me or Seth Voyles, PFI's Manager of Government Affairs, at 703-522-6778 if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "DKaiser", written in a cursive style.

Don Kaiser  
Executive Director  
Pellet Fuels Institute

Attachment 1 – Pellet Fuels Institute, Residential/Commercial Densified Fuel, QA/QC Handbook

Attachment 2 – Invoices for the purchase of biomass

Attachment 3 – Twin Ports Testing Document on Fuel Values and Contaminant Levels of Biomass