



December 2, 2020

The Honorable Jared Blumenfeld
 Secretary for Environmental Protection
 California Environmental Protection Agency
 1001 I Street
 Sacramento, CA 95811

Subject: Management of Treated Wood

Dear Secretary Blumenfeld,

On September 29, 2020 Governor Newsom vetoed [SB 68](#) (Galgiani), which would have repealed the sunset date for management and disposal of Treated Wood Waste (TWW) in a composite-lined portion of a solid waste landfill – standards that have been in place since 2004.

We, the undersigned, are concerned about the new information posted on the Department of Toxic Substances Control’s website regarding the management and disposal of Treated Wood Waste (TWW). The new information states:

“Note: The statute (HSC 25150.7) and regulations (22 CCR 67386.1 et seq.) that allow treated wood waste to be handled with alternative management standards are due to expire after December 31, 2020. After that date, all hazardous treated wood waste (not exempted by HSC 25143.1.5 as utility generated) managed in California will have to be stored and manifested as hazardous waste and transported to class I hazardous waste landfills for disposal.”

The Department of Toxic Substances Control has effectively managed TWW in two different ways:

1. Variances issued to producers, associations and landfills from 1980 till 2007: These variances authorized the disposal of TWW at the composite lined portion of a municipal landfills rather than at a class I hazardous waste landfill, if water quality permits allowed for such disposal.
2. Through the Alternative Management Standards (AMS) authorized by the passage of [AB 1353](#) (Matthews, Chapter 597, Statutes of 2004): To date the AMS program has safely managed more than 1.3 billion pounds of TWW in the 43 composite-lined landfills approved by the California State Water Resources Control Board¹.

Under either process, TWW has been proven safe in composite-lined landfills for the last 40 years. [SB 68](#) (Galgiani, 2020) was vetoed by the Governor. However, the Governor’s veto message indicated that the imposition of additional costs and the elimination of legislative review of the program were the reasons for the veto, and not the effectiveness of the TWW program itself. SB 68 would have extended the TWW programs through the AMS for the Department of Toxic Substances Control and for anyone using preserved wood products. Our broad coalition utilizes preserved wood and generates TWW, and we are quite concerned that moving away from the AMS will negatively impact many businesses, construction, “do it yourself projects,” transportation infrastructure, agriculture, and the environment.

We are thus writing to provide you with our understanding and implementation suggestions to keep the AMS for TWW active, while also preserving the Department’s authority over this important area:

1. The legislative history of AB 1353, [SB 909](#) (La Malfa, Chapter 601, Statutes of 2011) and [SB 162](#) (Chapter 351, Statutes of 2015) confirms the legislature’s intent that the regulations authorized by Health and Safety Code Section 25150.7 are intended to survive the expiration of the statute unless the regulations are affirmatively repealed. We respectfully ask you to reconsider the status of the AMS based on the legislative intent, legislative history, and the committee analyses of Health and Safety Code Section 25150.7. We would also like to discuss potential regulatory (and statutory) clarifications that could also be enacted, if necessary.
2. Alternatively, the Department of Toxic Substances Control can again issue temporary variances authorizing the disposal of treated wood waste at the composite-lined landfills authorized for such disposal. It is our understanding that the DTSC issued these variances with the authority granted from Health and Safety Code Sections 25150 and 58012, and that it also has specific statutory authority to grant variances under Section 25143.

We echo the concerns and options raised by waste haulers and local governments. It is everyone’s responsibility to protect our golden state, and we take our role seriously. Please do not hesitate to contact Ms. Kathy Lynch, 916-838-6600 or lynch@lynchlobby.com, to identify a path forward. It would be our pleasure to partner with you and develop a plan that will not disrupt the safe and successful disposal of TWW.

Sincerely,



Michael Gaber
Vice President
Aiken-Ford Lumber Co.



Tim Shestek
Senior Director, State Affairs
American Chemistry Council

¹ https://www.waterboards.ca.gov/water_issues/programs/land_disposal/docs/tww.pdf

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