



## Legislation Text

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**Date:** January 5, 2021

**To:** The Honorable Moke Simon, Chair, Lake County Board of Supervisors

**From:** Lars Ewing, Public Services Director

**Subject:** Discussion of Changes to State Management Standards for Treated Wood Waste and Direction to Staff for Future Efforts

### Background

Wood that has been preserved with chemicals for protection against pests and environmental conditions is called treated wood. Most commonly the wood is pressure-treated, though there are other treatment methods such as brushing, dipping or soaking. Typically treated wood is used in exterior applications where ground or water contact is likely; treated wood products include items such as fence posts, railroad ties, utility poles, landscape timbers, pilings, docks, piers, guardrail posts, decking, and lumber for numerous structural applications. When treated wood has reached the end of its service life it is considered treated wood waste (TWW) and is subject to California hazardous waste control laws for generators, transportation, and disposal.

### State Statute and Regulations

In recognition that a variety of households and businesses statewide (e.g., retail stores, agricultural and industrial facilities, and numerous construction trades) generate, handle, and manage treated wood waste, in 2007 the legislature enacted HSC 25150.7 to provide for a streamlined alternative management standard for TWW. Through the regulations the general community was provided a mechanism by which they could be in compliance with the law in place of the general hazardous waste control laws. In short, the cradle-to-grave (from point of generation until final disposal) alternative management standards lessen storage requirements, extend accumulation periods, allow shipments without a hazardous waste manifest or a hazardous waste hauler, and allow disposal at specific non-hazardous waste landfills with a composite liner. The County's Eastlake Sanitary Landfill has such a liner, which provides a local TWW disposal resource for county businesses and residents. The need for, and benefit of, the alternative standards is best summarized in the state's 2006 CEQA Initial Study: "While management (of TWW) as a hazardous waste would provide for the protection of human health and the environment, hazardous waste requirements would limit management and disposal options for a ubiquitous waste stream that tends to be generated by stakeholders not typically familiar with hazardous waste law."

However, the legislation that authorized the alternative management standards will expire on December 31, 2020, with no extension provided either in the existing legislation or through new legislation. Therefore, as of January 1, 2021, the use of alternative standards for TWW is no longer

permitted and it is a fully regulated hazardous waste in California. Aside from the host of consequences to the entire TWW cradle-to-grave chain, one significant impact is that only Class 1 hazardous waste landfills can accept TWW in California. This means the only landfill in the entire state that is authorized to accept TWW for disposal is the Buttonwillow Landfill, located approximately 40 miles west of Bakersfield.

Legislation was proposed this year to allow for the continued use of the alternative management standards (SB 68, Galgiani), but it was vetoed by the governor. The solid waste industry and numerous local governments - to include the Rural County Representatives of California (RCRC) and the League of California Cities - expressed concerns over the veto; a December 1, 2020 coalition letter to the California Environmental Protection Agency (CalEPA) is included. In a December 16, 2020 response letter (also included), the Department of Toxics and Substance Control (DTSC) stated they are "aware that the pending sunset of the statute and repeal of the alternative management standards for treated wood waste will significantly impact the management of treated wood waste, imposing significant additional regulatory requirements on treated wood waste which have not been required for many years", and that "this significant change of status has created uncertainty and will result in many questions from generators and other handlers of treated wood waste." Regardless, DTSC acknowledges that there will NOT be a fix in place to afford a seamless transition.

## **Current Status**

RCRC informs us that DTSC intends to pursue the issuance of temporary variances which in the short-term will allow treated wood waste to continue to be managed pursuant to the alternative management standards, and therefore continue to be disposed in composite lined landfills. The details of the variance application process is anticipated to be available by mid-February; however, the variances are subject to CEQA and notice requirements, along with the time required to prepare the application, so from a practical standpoint it is unclear when a variance might be in effect. Additionally DTSC is apparently exploring a six month variance period with an option for one six month extension. Which is intended to offer a solution now while DTSC pursues a legislative solution for a longer term fix with "hope that more protective, longer term solutions can be found to replace the continuation of the alternative management standards and disposal in solid waste landfills."

Regardless of any future short-term variance options or long-term legislative solutions, for the time being the Eastlake Landfill will not be permitted to accept TWW for disposal regardless of quantity or type of TWW generator (residential, commercial, industrial, utility, transportation, etc.).

## **Disposal and Storage Options**

In light of the changes staff at, Public Services, C&S Waste Solutions, and South Lake Refuse and Recycling all investigated TWW disposal options outside of Lake County, to include Buttonwillow as well as out-of-state options. Disposal costs were in the range of \$500-\$600 per ton, which is approximately ten times the rate at the Eastlake Landfill. Furthermore this cost was only for disposal; transportation costs were not factored in and would be significant.

As an alternative to disposal, if treated wood will be reused in an appropriate future application it is by definition not considered TWW and may be stored in an appropriate manner, typically in either a closed container or on elevated blocks and tarped. However, once the treated wood is "relinquished" (i.e. removed from service for disposal or stored with the intent of being disposed), a

different set of rules apply. In this case, temporary storage of TWW is a possibility but there are limitations such as duration and quantity of TWW to be stored, both with varying allowances dependent upon whether the generator of the waste is a “small quantity generator” (less than 1,000 kg of TWW per month) or “large quantity generator” (1,000 kg or more per month). The information above is based on a December 2020 DTSC document; however, Lake County Environmental Health (LCEH), the local agency certified by CalEPA to implement and enforce hazardous waste and hazardous materials regulatory management programs, should be contacted to consider each circumstance and make a determination. LCEH staff are aware of the changes and have been very helpful sharing information as it becomes available.

In light of the dynamic nature of the situation and the guidelines currently being developed by DTSC, the recommendation is for the Board to direct staff to monitor DTSC's variance-based temporary solution and work with RCRC and the County's solid waste task force (which will be meeting in the end of January) to determine the implications of both the short-term variance and long-term legislative efforts.

**If not budgeted, fill in the blanks below only:**

Estimated Cost: \_\_\_\_\_ Amount Budgeted: \_\_\_\_\_ Additional Requested: \_\_\_\_\_ Future Annual Cost: \_\_\_\_\_

**Consistency with Vision 2028 and/or Fiscal Crisis Management Plan** (check all that apply):

- |   |   |  |   |
|---|---|--|---|
| <input checked="" type="checkbox"/> Well-being of Residents | <input checked="" type="checkbox"/> Public Safety               | <input checked="" type="checkbox"/> Infrastructure | <input type="checkbox"/> Not applicable             |
| <input type="checkbox"/> Economic Development               | <input type="checkbox"/> Disaster Recovery                      | <input type="checkbox"/> County Workforce          | <input type="checkbox"/> <i>Technology Upgrades</i> |
| <input checked="" type="checkbox"/> Community Collaboration | <input checked="" type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake                | <input type="checkbox"/> <i>Revenue Generation</i>  |
|   |   |  | <input type="checkbox"/> <i>Cost Savings</i>        |

**If request for exemption from competitive bid in accordance with County Code Chapter 2 Sec. 2-38, fill in blanks below:**

Which exemption is being requested?  
How long has Agreement been in place?  
When was purchase last rebid?  
Reason for request to waive bid?

**Recommended Action:** Provide direction to staff to pursue the temporary variance process with DTSC and continue to work with RCRC for a long-term legislative solution