



California Hazardous Waste Control Law and the resultant hazardous waste management standards. Existing requirements for the management of non-RCRA hazardous treated wood waste are found in Health and Safety Code (HSC section 25150.7(e)). These requirements provide streamlined handling standards for treated wood waste. Subject to a sunset date of January 1, 2007, HSC section 25150.7 conditionally exempts generators, transporters, and other entities managing treated wood waste prior to disposal from the requirements of the hazardous waste control law. The conditions for the exemption are:

- Manage treated wood waste so as to prevent scavenging.
- Do not dispose of treated wood waste outside of a hazardous waste or composite lined nonhazardous waste landfill as described in section 25150.7(d).
- Burn, recycle, reclaim, or reused treated wood waste only in compliance with the general hazardous waste laws.
- Do not store treated wood waste for more than 90 days.
- Protect stored treated wood wastes from run-on and run-off.
- Store treated wood waste on an impervious surface.
- Do not mix treated wood waste with other wood wastes.
- Comply with applicable Cal/OSHA regulations for hazardous wastes.

HSC section 25150.7(g) mandates DTSC to adopt, by January 1, 2007, management standards for non-RCRA TWW as an alternative to California hazardous waste law. Section 25150.7(g)(2) further instructs,

“The regulations adopted pursuant to this subdivision shall, at a minimum, ensure all of the following:

(A) Treated wood waste is properly stored, treated, transported, tracked, disposed of, and otherwise managed so as to prevent, to the extent practical, releases of hazardous constituents to the environment, prevent scavenging, and prevent harmful exposure of people, including workers and children, aquatic life, and animals to hazardous chemical constituents of the treated wood waste.

(B) Treated wood waste is not reused, with or without treatment, except for a purpose that is consistent with the approved use of the preservative with which the wood has been treated. For purposes of this subparagraph, "approved uses" means a use approved at the time the treated wood waste is reused.

(C) Treated wood waste is managed in accordance with all applicable laws.

(D) Any size reduction of treated wood waste is conducted in a manner that prevents the uncontrolled release of hazardous constituents to the environment, and that conforms to applicable worker health and safety requirements.

(E) All sawdust and other particles generated during size reduction are captured and managed as treated wood waste.

(F) All employees involved in the acceptance, storage, transport, and other management of treated wood waste are trained in the safe and legal management of treated wood waste, including, but not limited to, procedures for identifying and segregating treated wood waste.”

The proposed regulations are available for review at local repositories and on the DTSC website at <http://www.dtsc.ca.gov/LawsRegsPolicies/index.cfm>.

### **Emergency Rulemaking**

As described above, the Legislature directed DTSC to develop regulations that provide specific alternative management standards for TWW before the January 1, 2007 sunset date for existing standards. In response to this directive, DTSC has developed proposed regulatory language and prepared associated documents in compliance with the Administrative Procedures Act (APA). However, DTSC has determined that the rulemaking process will not be completed prior to the inoperability date under HSC 25150.7(e) because the 45-day review period required under the APA will run past that date. This will result in the alternative management standards for TWW not being in effect until the rulemaking adopting permanent TWW regulations can be completed. As a result of this delay, DTSC proposes to adopt emergency regulations that extend the alternative management standards of HSC 25150.7(e) for one hundred twenty (120) days in order for the rulemaking process of the permanent regulations to be completed and for permanent alternative management standards to be adopted. As discussed below, DTSC finds that these emergency regulations will not pose a significant impact to the environment.

### **Definitions of Terms Used in this Document**

To help the public understand the potential for environmental impacts resulting from this project, it is necessary to understand some of the technical terms used in this document. These terms are defined below. The definitions given here are informal descriptions rather than rigorous technical definitions so that the terms can be understood by the general public.

“FIFRA” The Federal Insecticide, Fungicide, and Rodenticide Act provides the basis for regulation, sale, distribution and use of pesticides in the United States.

“Hazardous Waste” Discarded materials that pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed.

“RCRA” Resource Conservation and Recovery Act of 1976 provides the regulatory structure for the management of solid and hazardous wastes. Subtitle C of RCRA addresses "cradle-to-grave" requirements for hazardous waste from the point of generation to disposal.

“Treated wood waste” or “TWW” hazardous wood waste solely due to the chemicals resulting from treatment currently, or previously, approved under FIFRA and is not subject to hazardous waste regulation under the RCRA.

### **Acronyms Used in this Document**

AWPA	American Wood-Preservers' Association
DPR	California Department of Pesticide Regulation
HSC	Health and Safety Code
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
RCRA	Resource Conservation and Recovery Act
TWW	Treated Wood Waste

### **Background Information**

In accordance with the above definition of “TWW,” the chemicals addressed in this rulemaking include only those chemicals or mixtures of chemicals present in wood waste that were added to the wood in accordance with a FIFRA approved use and result in the wood waste meeting California hazardous waste criteria. TWW chemicals, therefore, must be a constituent of a FIFRA “registered” product and result in a wood waste that meets California hazardous waste criteria solely because of those chemicals.

Pesticides used for wood preservation are typically divided into two general categories: (1) oilborne preservatives, such as creosote and petroleum solutions of pentachlorophenol; and (2) waterborne preservatives, which are applied as aqueous solutions. Both categories include a variety of chemicals, each with differing effectiveness under various exposure conditions. Effectiveness is a key parameter in the use of treated wood products and is typically related to the chemical constituents of the preservative, the extent of chemical penetration in the treated wood, the species of wood being treated, and the condition of exposure during use. These factors are considered by organizations such as the American Wood Preservers’ Association (AWPA) in developing “use categories”. “Use categories” are based on exposures and expected product performance, ranging from weather protected to salt water marine. An additional “use category” is provided for fire retardant applications. In general, as the “Use Category” number increases, the potency, concentration, and retention of the preserving chemicals in the treated wood increases.

In California, pesticide registration is conducted by the California Department of Pesticide Registration (DPR). DPR’s stated mission is “to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.” Pesticide registration is the primary focus of

DPR's oversight and involves product evaluation, risk assessment, illness surveillance, and environmental monitoring.

The registration of a pesticide by DPR represents a decision by a governmental agency that has the potential to result in an environmental effect and is, therefore, subject to the California Environmental Quality Act (CEQA). CEQA mandates environmental impact review of discretionary projects and applies generally to activities of all State and local agencies and to activities that those agencies finance and/or regulate. Unless a project is exempt or is shown to have an insignificant environmental effect, CEQA requires that an environmental impact report (EIR) be completed in order to identify any significant effects that the project may have on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. CEQA further requires public review and comment prior to agency action.

In accordance with Public Resources Code (PRC) section 21080.5, the review process conducted by DPR in registering a wood preservative has been certified by the Secretary of the Resources Agency as being functionally equivalent to an EIR.

In accordance with the definitions of HSC section 25150.7, the term "treated wood" refers only to wastes that are hazardous wastes. This rulemaking follows the protocol set in statute by defining the term "treated wood waste" or "TWW" as a **hazardous wood waste** solely due to the chemicals resulting from treatment currently, or previously, approved under FIFRA.

In fulfilling the legislative directives of AB1353, DTSC developed draft regulatory language that provides alternative management standards for TWW.

## **The Proposed Regulations**

The proposed project involves two rulemaking processes:

- 1) Emergency regulations which will extend the current statutory management standards of TWW for 120 days beyond the statutory sunset date of January 1, 2007.
- 2) Permanent regulations which, when completed, will establish comprehensive alternative management standards for TWW.

The proposed permanent regulations would establish streamlined management standards for treated wood waste with which the regulated community may comply in place of the general hazardous waste control laws. They apply only to treated wood waste that is identified as a hazardous waste under State law but is not regulated as a hazardous waste under federal law; thus, these standards have no federal counterpart. These streamlined management standards

generally mirror the temporary alternative management standards in Health and Safety Code section 25150.7. The streamlined standards:

- Add a new waste code for treated wood waste to the list of State waste codes;
- Exclude from the scope of these proposed regulations the following treated wood waste:
  - Treated wood waste that is addressed by Health and Safety Code section 25143.1.5;
  - Treated wood waste that is hazardous for reasons other than or in addition to the wood treatment chemicals (for instance, lead-based paint);
  - Treated wood waste that is burned, recycled, reused, or reclaimed unless those activities are in compliance with the general standards of the hazardous waste control law;
  - Reused for a use that is not within the registered use for the treatment chemical under the Federal Insecticide, Fungicide, Rodenticide, Act and regulations; and
  - Intended to be burned;
- Prohibit specified activities such as burning, scavenging, mixing with other wastes prior to disposal, storage on the ground, and disposal to land outside of a qualified landfill, and removal, destruction, obliteration, or defacing of any identifying mark or label that identified the material as treated wood waste;
- Define terms necessary for applying these regulations;
- Establish labeling requirements and exemptions from labeling requirements;
- Establish requirements for storing treated wood waste including:
  - Access control.
  - Storage under tarps.
  - Storage in containers.
  - Storage in buildings.
  - Storage on a containment pad.
  - A performance standard for other types of storage.
  - Accumulation time limits.
  - Training requirements for employees handling treated wood waste.
  - Exemptions for household generated treated wood waste and short term accumulation at the site of generation;
- Establish requirements for off site shipments of treated wood waste including:
  - The consignee must agree to accept the shipment.
  - Authority to ship to an off site temporary accumulation area if the treated wood waste is transported by the generator, the generator's employees, or the generator's agent and the shipment uses a shipping paper containing specified information and the treated wood waste handler retains that document for three years.

- A prohibition on transportation in a manner that fails to prevent unauthorized access; loss, dispersion, and leaching of TWW; protect the TWW from precipitation; and, under conditions normally incidental to transportation, prevent release of TWW to the environment;
- Establish standards for tracking treated wood waste from the generation or accumulation site, receipt of treated wood waste, and reporting of receipt of shipments. Additionally, the regulations direct DTSC to make the reports publicly available and require treated wood waste handlers to retain records. Households are exempted from recordkeeping requirements;
- Require large quantity (>10,000 pounds per year) generators of treated wood waste to obtain a hazardous waste identification number and to notify DTSC of exceeding that quantity limit;
- Establish authority and standards for specified treatment of treated wood waste including:
  - Allowing resizing for transportation and reuse under specified conditions.
  - Requiring protective handling of resized treated wood waste and sawdust. and
  - Training of employees involved in resizing treated wood waste;
- Establish standards for disposing of treated wood waste. These standards conform to the statutory requirement that disposal in non-hazardous waste landfills continue under the same conditions under these regulations.

## **General Statewide Environmental Setting**

A wide variety of businesses (e.g., retail stores, agricultural and industrial facilities, and numerous construction trades) and individual households statewide may generate, handle, and manage treated wood waste. Statewide, significant quantities are generated annually. While management 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. These issues are similar to those effecting universal wastes. In response to these issues, the Legislature enacted HSC sections 25150.7 and 25150.8. This statute tasks DTSC to develop alternative management standards for specified treated wood waste. The statute further requires that all treated wood waste managed in accordance with these alternative standards be disposed to an approved composite-lined landfill units meeting specified conditions or a hazardous waste landfill. The statute also established temporary alternative standards to existing hazardous waste requirements for treated wood waste managed prior to January 1, 2007. The January 1, 2007 sunset date for the temporary standards coincides with the mandated deadline for DTSC adoption of permanent alternative management

standards. The proposed regulations, if adopted, will become the permanent alternative management standards for treated wood waste.

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## **1. Aesthetics**

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*Project activities evaluated for potential environmental impact:*  
None

*Regulatory Setting:*

Visual aesthetics associated with development near designated state highways are addressed by the California Scenic Highway Program. This program is overseen by the California Department of Transportation (CalTrans) Office of State Landscape Architecture, and is implemented by local governments. Beyond individual waste generators, collection and transfer of treated wood waste is allowed only at treated wood waste facilities. Only specified solid waste facilities authorized in accordance with California Integrated Waste Management Board (CIWMB) regulations may become a treated wood waste facility. Significant adverse aesthetic impacts are therefore not expected from these potential businesses because the buildings or sites would have to meet local land use criteria or building requirements or they would not be approved for construction or operation. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Have a substantial adverse effect on a scenic vista; and*
- b. *Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings and historic buildings within a state scenic highway.*
- c. *Substantially degrade the existing visual character or quality of the site and its surroundings.*
- d. *Create a new source of substantial light of glare which would adversely affect day or nighttime views in the area.*

*References:*  
None

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated

- Less Than Significant Impact
- No Impact

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## **2. Agricultural Resources**

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*Project activities evaluated for potential environmental impact:*  
None

*Environmental Setting:*

Because the proposed regulations do not require new construction, and any facilities would have to comply with local zoning and land use requirements (including use of agricultural land), implementation of the proposed regulations will have no impact on agricultural resources. Therefore no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use;*
- b. *Conflict with existing zoning or agriculture use, or Williamson Act contract; and*
- c. *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural uses.*

*References:*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **3. Air Quality**

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*Project activities for potential environmental impact:*

Establish alternative management standards for treated wood waste that include the following requirements:

- Prohibits activities that increase risk to human health and the environment;
- Requires treated wood waste to be labeled;
- Requires treated wood waste to be maintained in a manner that prevents unauthorized access and minimizes release to the environment;
- Prohibits the transfer of treated wood waste to a place other than an approved treated wood waste facility;
- Specifies what facilities may accept treated wood waste;
- Requires that generators and handler maintain a record of treated wood waste shipments;
- Requires that treated wood waste facilities report treated wood waste shipments;
- Requires that large treated wood waste generators (>10,000 pounds per year) notify DTSC;
- Authorizes “resizing to facilitate transportation” and “sorting and segregation,”; and
- Requires that final disposal is to an approved composite-lined landfill as specified in statute (HSC section 25150.7(d)).

*Regulatory Setting:*

Air quality issues for California statewide are overseen by the California Air Resources Board (CARB). CARB implements the federal air quality requirements and establishes health-based ambient air quality standards appropriate for California. Currently, standards have been established for nine criteria pollutants, including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter (PM –10), sulfates, lead, hydrogen sulfide, and visibility-reducing particles.

Air quality is also regulated at the regional or local level by Air Quality Management Districts (AQMDs) or Air Pollution Control Districts (APCDs). While the chemicals found in treated wood waste are not identified as a statewide criteria pollutant, many are considered a toxic air contaminant. In general, however, air quality standards for treated wood wastes are focused on incineration and power generation. These emission standards will vary according to local conditions and processes. The proposed alternative standards for treated wood waste specifically prohibit burning of treated wood waste and require land disposal to an approved landfill.

For indoor or accidental exposure standards, CARB and the local air districts generally rely upon the California Occupation Safety and Health Standards Administration (CalOSHA) Permissible Exposure Limits (PELs) for worker exposure to airborne contaminants, including many of the chemicals found in treated wood waste. These requirements are found in Title 8, Chapter 4, California Code of Regulations, section 5155.

*Analysis of Potential Impacts:*

The primary requirements of the proposed alternative management standards for treated wood waste are that the waste can not be burned and the waste may only be disposed to an approved, composite-lined landfill. The intent of the prohibition on burning is to, among other things, prevent release of toxic chemical into the air and to promote efficient and economical disposal to approved, composite-lined landfills. The purpose of the proposal is, therefore, to protect air quality. Otherwise being a solid, treated wood waste would not pose a significant risk to air quality.

Under the proposed emergency regulations, which temporarily extend the current statutory management standards, treated wood wastes are exempted from hazardous waste management standards only when they are managed in accordance with specified handling and disposal requirements. The specified requirements mandate that the treated wood wastes be disposed to an approved composite-lined landfill, which, in effect, prohibits burning and/or other treatment/disposal options that might pose a risk to air quality. The management standards of the proposed emergency regulations are, therefore, equivalent to those of the proposed regulations with regard to air quality.

*The following is a description of the extent to which project activities would:*

- a. *Conflict with or obstruct implementation of the applicable air quality plan.*

The proposed regulations prohibit the burning or unauthorized treatment of treated wood waste. These requirements ensure compliance and consistency with applicable air quality plans or standards for treated wood waste chemicals.

- b. *Violate any air quality standard or contribute substantially to an existing or projected air quality violation.*

As noted in a. above, the proposed regulations require that treated wood waste be managed in a way that prevents release to the environment and specifically prohibits burning or unauthorized treatment of treated wood waste. These requirements ensure that air quality standards for treated wood waste chemicals are not violated and that management of treated wood waste under the proposed regulations will not contribute to any existing or projected air quality violation.

- c. *Result in cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).*

While treated wood waste may contain chemicals that could be toxic air contaminants, none are identified as criteria pollutants. The proposed regulations require that treated wood waste be managed in a way that prevents release to the environment and specifically prohibits burning or unauthorized treatment of treated wood waste. Implementation of the proposed regulations will, therefore, not impact air quality criteria pollutant concentrations in the state.

*d. Expose sensitive receptors to substantial pollutant concentrations.*

Sensitive receptors are generally defined as sensitive human populations, such as children, seniors, sick, or infirm persons. Individual households or businesses that generate treated wood waste may include sensitive receptors. The products used to preserve wood are registered by the DPR in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act and under go extensive review prior to approval for use. The proposed regulations would not impact the use of treated wood products and only apply to the management of treated wood once it becomes a waste. The proposal would also to not significantly change the management standards that apply to households; households are already exempt from many hazardous waste management requirements. The proposal does, however, place additional waste management requirements on business that manage treated wood waste, including training, containment, and spill cleanup requirements. These requirements will help ensure that sensitive receptors are not exposed to treated wood waste chemicals.

*e. Create objectionable odors affecting a substantial number of people.*

The treated wood wastes that are eligible for the proposed alternative management standards are not known to emit objectionable odors, and burning and unauthorized treatment that might cause an odor is specifically prohibited under the proposed regulations. Therefore, no objectionable odors will be created or generated.

*References:*

California Air Resources Board website for information on criteria pollutants and toxic air contaminant information: <http://www.arb.ca.gov/>.

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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#### **4. Biological Resources**

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*Project activities evaluated for potential environmental impact.*

Establish alternative management standards for treated wood waste that include the following requirements:

- Prohibits activities that increase risk to human health and the environment;
- Requires treated wood waste to be labeled;
- Requires treated wood waste to be maintained in a manner that prevents unauthorized access and minimizes release to the environment;
- Prohibits the transfer of treated wood waste to a place other than an approved treated wood waste facility;
- Specifies what facilities may accept treated wood waste;
- Requires that generators and handler maintain a record of treated wood waste shipments;
- Requires that treated wood waste facilities report treated wood waste shipments;
- Requires that large treated wood waste generators (>10,000 pounds per year) notify DTSC;
- Authorizes “resizing to facilitate transportation” and “sorting and segregation;” and
- Requires that final disposal is to an approved composite-lined landfill as specified in statute (HSC section 25150.7(d)).

*Regulatory Setting:*

Protection of wildlife habitat and designated threatened and endangered species is overseen by the California Department of Fish and Game (CDFG) and the United States Fish and Wildlife Service (in federal jurisdictions). Local agencies may also establish and enforce policies, ordinances, or plans for wildlife protection, preservation, or habitat conservation.

Discharges of pollutants to surface and ground waters and discharges to land that may impact water resources are regulated by the State Water Resources Control Board and nine Regional Water Quality Control Boards. Discharges of dredge and fill materials and construction impacts to waters of the United States, including federal wetlands, are regulated by the United States Army Corps of Engineers according to Section 404 of the federal Clean Water Act.

*Analysis of Potential Impacts:*

The project is the promulgation and statewide implementation of regulations governing the management of treated wood wastes. The regulations do not address site-specific conditions and do not require or mandate construction of new facilities or infrastructure (i.e., buildings, roads, or disposal facilities) that would impact biological resources. Because the proposed regulations do not address site-specific conditions or construction projects that would directly impact

biological resources, any potential impacts would likely be indirect impacts resulting from the leaching of chemicals from the treated wood waste. The proposed regulations address the management of treated wood waste from the point of generation until final disposal to an approved composite-lined landfill. Disposal to an approved composite-lined landfill is mandated by statute (HSC section 25150.7(d)) and is, therefore, not a part of this project. The use of treated wood products is also not a part of this project. Once the treated wood is determined to be a waste, these regulations require, among other things, that the waste be contained so as to prevent release to the environment. The regulations also prohibit burning and treatment of treated wood waste and require that the waste be labeled to prevent unintentional contact and inappropriate disposal. These requirements are designed to prevent releases of wood preserving chemicals to air, soil, or water that might impact biological resources.

Furthermore, the alternative management standards established in the proposed regulations provide an efficient and economical option for managing treated wood waste, which acts to promote its appropriate handling, storage, and disposal.

Consequently, given the waste management controls established in the regulations, and the economic incentive to manage and dispose of treated wood waste appropriately, a less than significant impact on biological resources is expected from implementation of the proposed regulations.

The proposed regulations prohibit discharges to water and land and do not require or mandate construction of new facilities or infrastructure. Any new construction undertaken in response to the proposed regulations would be subject to local land use, zoning, building, construction, and State and federal environmental requirements. In particular, any new construction would be subject to discharge prohibitions and controls established by State and federal agencies implementing the provisions of the federal Clean Water Act, including National Pollutant Discharge Elimination System (NPDES) discharge and storm water permits, and Section 404 permits regulating construction dredge and fill activities.

The proposed project is the promulgation of statewide regulations that do not address site-specific conditions and do not require or mandate new facilities or infrastructure. As a result, impacts to sensitive communities such as wetlands, riparian habitats, and migratory species could only result of new construction that might be indirectly encouraged by the proposed project. It should be noted that any new construction "encouraged" by this project would be subject to full CEQA review and is, therefore beyond the scope of this Initial Study.

Under the proposed emergency regulations, which temporarily extend the current statutory management standards, treated wood wastes are exempted from hazardous waste management standards only when they are managed in

accordance with specified handling and disposal requirements. The specified requirements mandate that the treated wood wastes be disposed to an approved composite-lined landfill, which, in effect, prohibits burning and/or other treatment/disposal options that might pose a risk to biological resources. The management standards of the proposed emergency regulations are, therefore, equivalent to those of the proposed regulations with regard to biological resources.

It should be noted that state law (HSC 25150.8) allows treated wood waste to be disposed to an approved composite-lined landfill; this law does not sunset. As a result, this project will not affect the final disposal of treated wood waste.

The proposed regulations require that facilities accepting and accumulating treated wood wastes be permitted or authorized in accordance with CIWMB regulations as a solid waste facility. The proposed regulations further require that all treated wood waste be managed to prevent release to the environment. Therefore, there would be no substantial adverse impact on species, habitat, natural communities, federally protected wetlands, or migratory corridors from implementation of the proposed regulations. In addition, implementation of the proposed regulations would not conflict or impede any local policies, ordinances, or adopted conservation plans. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;*
- b. *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;*
- c. *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;*
- d. *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;*

- e. *Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; and*
- f. *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **5. Cultural Resources**

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*Project activities evaluated for potential environmental impact:*  
None

*Regulatory Setting:*

Identification, preservation, and protection of California cultural and historical resources (such as archaeological or paleontological remains, historic buildings, traditional customs, tangible artifacts, and historical documents) are overseen by the California Office of Historic Preservation. In addition, every local government in California has the authority to adopt local ordinances applying regulations to historic properties. However, local requirements will differ because every local community has different types of historic resources, populations, and development pressures.

Beyond individual waste generators, collection and storage of treated wood wastes is primarily expected to be conducted at existing solid waste facilities, such as landfills, transfer stations, and material recovery facilities. These existing facilities would be subject to local zoning, land use, and building requirements, including any public health or cultural and historic resource conservation requirements. New facilities that might be established specifically to collect, manage and store treated wood wastes would also be subject to local zoning, planning, and building requirements that address cultural and historic resources.

Because facilities managing treated wood waste would be subject to federal, State, or local requirements addressing cultural or historic resources, and the proposed regulations do not mandate construction of new facilities, implementation of the regulations will not impact cultural resources in the state.

The proposed regulations do not address site-specific conditions and do not require new construction that would cause adverse changes to historical, archeological, and paleontological resources, or human remains as described above. In addition, existing and new facilities would have to comply with local zoning, land use, and building requirements, including requirements for protection and preservation of historical, archeological, and paleontological resources and necessary actions in the event human remains are found. Therefore, implementation of the proposed regulations will not cause any adverse change in historical, archeological, or paleontological resource, or disturb any human remains. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5;*
- b. *Cause a substantial adverse change in the significance of an archeological resource pursuant to 15064.5;*
- c. *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; and*
- d. *Disturb any human remains, including those interred outside of formal cemeteries.*

*References:*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **6. Geology and Soils**

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*Project activities evaluated for potential environmental impact:*

None

*Regulatory setting:*

California exhibits a very broad diversity of geologic environments, with human development superimposed on each. Generation and management of treated wood waste occurs throughout the state, irrespective of geologic conditions.

Regional or local agencies establish zoning and building requirements necessary to address the geologic conditions within their jurisdictions, including building siting criteria and structural requirements.

In addition, the California Department of Conservation, California Geologic Survey (CGS), oversees programs related to geologic conditions statewide, including geologic hazards assessments and mapping, including the Seismic Hazards Mapping Act and the Alquist-Priolo Special Studies Zones Act. These programs provide the scientific information, such as maps and studies, necessary for individuals and local agencies to comply with established laws and regulations. The main purpose of the Alquist-Priolo Earthquake Fault Zoning Act is to prevent the construction of buildings used for human occupancy on the surface trace of sufficiently active and well-defined faults in the State. The Seismic Hazards Mapping Act of 1990 requires the State to establish regulatory zones that encompass areas prone to liquefaction (ground failure in water saturated soil) and earthquake-induced landslides and provide that information to local jurisdictions for use in planning and controlling construction and development. Currently, 63 official Seismic Hazard Zones have been established statewide, affecting six counties and 115 cities.

The proposed regulations address management standards for treated wood waste from the point of generation until, but not including, final disposal. The regulations do not address site-specific conditions and do not mandate or require construction of new facilities or additional infrastructure to manage the waste. Existing facilities that may collect and manage treated wood waste would be subject to any local land use and building requirements related to geologic conditions in the area, including local seismic concerns and soil conditions. In addition, the regulations require that facilities collecting and transferring treated wood waste be permitted or authorized in accordance with CIWMB regulation as a solid waste facility.

Any new structures that might be built to manage and transfer treated wood wastes would also be subject to the local business and building requirements established to address local geologic conditions. The structures would also have to comply with State requirements under the Alquist-Priolo Act and local requirements established in accordance with the Seismic Hazard Zones Act. The Alquist-Priolo Act prohibits locating structures for human occupancy within the trace of a fault that has ruptured (displaced) during the last 11,000 years and requires the structure to be set back from the fault (usually 50 feet or more). Local construction, development, and seismic design criteria will vary according to local conditions, but will usually include location and design criteria based on maximum credible or expected earthquake impacts.

Because the proposed regulations do not address site-specific conditions and do not require new construction, there should be no direct impact on geologic resources or conditions from implementation of the regulations. In addition, any

existing structures or new construction that might be built or used to manage and transfer treated wood wastes would be subject to local zoning, planning, and building requirements, so no indirect impact on geologic conditions from existing structures or new construction is expected from implementation of the proposed regulations. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:*
  - *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault. (Refer to Division of Mines and Geology Special Publication 42)*
  - *Strong seismic ground shaking*
  - *Seismic-related ground failure, including liquefaction*
  - *Landslides;*
- b. *Result in substantial soil erosion or the loss of topsoil;*
- c. *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse;*
- d. *Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property; and*
- e. *Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of water.*

*References:*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## 7. Hazards and Hazardous Materials

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*Project activities evaluated for potential environmental impact:*

Establish alternative management standards for treated wood waste that include the following requirements:

- Prohibits activities that increase risk to human health and the environment;
- Requires treated wood waste to be labeled;
- Requires treated wood waste to be maintained in a manner that prevents unauthorized access and minimizes release to the environment;
- Prohibits the transfer of treated wood waste to a place other than an approved treated wood waste facility;
- Specifies what facilities may accept treated wood waste;
- Requires that generators and handler maintain a record of treated wood waste shipments;
- Requires that treated wood waste facilities report treated wood waste shipments;
- Requires that large treated wood waste generators (>10,000 pounds per year) notify DTSC;
- Authorizes “resizing to facilitate transportation” and “sorting and segregation,”; and
- Requires that final disposal is to an approved composite-lined landfill as specified in statute (HSC section 25150.7(d)).

*Regulatory setting:*

As defined in the proposed regulation treated wood waste is a hazardous waste and would be subject to the requirements of California hazardous waste law if not for the current statutory exemption. Current State law establishes streamlined management standards for managing treated wood waste that is also a hazardous waste. The streamlined management standards are found in Health and Safety Code section 25150.7 and remain in effect until January 1, 2007. To allow expeditious management of treated wood waste after that date, the legislature directed DTSC to adopt regulations establishing permanent alternative management standards to replace the statutory standards that will sunset on 1/1/2007.

Generally, the Health and Safety Code section 25150.7:

- Defines treated wood waste
- Limits the alternative management standards to treated wood waste that is hazardous only due to the wood treatment chemicals. That is, the wood cannot be identified as hazardous waste for other constituents such as lead-based paint.
- Limits the alternative management standards to treated wood waste that is not regulated under the federal hazardous waste control law, RCRA. Thus, these regulations must be limited to “non-RCRA hazardous waste”.

- Excludes utility generated wood waste that is excluded pursuant to Health and Safety Code section 25143.1.5 from the requirements of 25150.7 and these proposed regulations.
- Allows treated wood waste to be disposed at non-hazardous waste landfills that meet modern double-liner and leachate collection system requirements and that have waste discharge requirements (permits issued by the Regional Water Quality Control Boards) that allow acceptance of treated wood waste. Note that the statute requires that these proposed regulations continue to allow disposal at these facilities.
- Prohibits disposal outside of the landfills referred to above, burning of treated wood waste, scavenging of treated wood waste, and reclamation and reuse that is not consistent with the State's hazardous waste recycling laws.
- Establishes the treated wood waste alternative management standards (see the next bulleted list below).
- Establishes labeling requirements for treated wood products that must be provided to treated wood retailers and wholesalers.
- Requires the treated wood industry to make proper handling and disposal information available to specified persons using treated wood.
- Directs DTSC, in consultation with the California Integrated Waste Management Board, the State Water Resources Control Board, and the Office of Environmental Health Hazard Assessment, to adopt permanent alternative management standards as necessary for safe management of treated wood waste. It also specifies certain provisions for the management standards.
- Cancels any pre-existing regulatory exclusions or conditional exclusions and any pre-existing variances for treated wood waste.
- Allows the regulated community to choose to comply with either the general hazardous waste control law or these alternative management standards for managing their treated wood waste.

Note that the subsequent statutory section, Health and Safety Code section 25150.8, then declares that treated wood waste is no longer a hazardous waste when it is accepted by a solid waste landfill qualified to dispose of treated wood waste.

Existing (statutory) management standards:

- The landfill that accepts treated wood waste must comply with the following standards:
  - Prevent scavenging of treated wood waste.
  - Ensure that management of the treated wood waste at the landfill complies with Chapter 6.5 of the Health and Safety Code as modified by these regulations.
  - Cease to accept treated wood waste if monitoring reveals a release of treated wood waste constituents. The landfill may re-commence

- accepting treated wood waste if corrective action eliminates the release.
- Generators, transporters, and intermediate accumulation facilities must comply with the following standards:
    - Prevent scavenging of treated wood waste.
    - Do not store for more than 90 days.
    - Store in a manner that is protected from run-on and run-off, on a surface that is sufficiently impervious to prevent contact with the ground and leaching of treated wood waste constituents to the soil or water.
    - Do not mix with other wood waste prior to disposal.
    - Comply with the California Occupational Safety and Health Administration (Cal/OSHA) statutes and regulations relating to hazardous waste.

*Analysis of Potential Impacts:*

The proposed regulations would establish permanent streamlined management standards for treated wood waste with which the regulated community may comply in place of the general hazardous waste control laws. They apply only to treated wood waste that is identified as a hazardous waste under State law but is not regulated as a hazardous waste under federal law; thus, these standards have no federal counterpart. These streamlined management standards generally mirror the temporary streamlined management standards in Health and Safety Code section 25150.7(e). The standards:

- Add a new waste code for treated wood waste to the list of State waste codes.
- Exclude from the scope of these proposed regulations the following treated wood waste:
  - Treated wood waste that is addressed by Health and Safety Code section 25143.1.5.
  - Treated wood waste that is hazardous for reasons other than or in addition to the wood treatment chemicals (for instance, lead-based paint).
  - Treated wood waste that is burned, recycled, reused, or reclaimed unless those activities are in compliance with the general standards of the hazardous waste control law.
  - Reused for a use that is not within the registered use for the treatment chemical under the Federal Insecticide, Fungicide, Rodenticide, Act and regulations.
  - Intended to be burned.
- Prohibit specified activities such as burning, scavenging, mixing with other wastes prior to disposal, storage on the ground, and disposal to land outside of a qualified landfill, and removal, destruction, obliteration, or defacing of any identifying mark or label that identified the material as treated wood waste.

- Define terms necessary in applying these regulations.
- Establish labeling requirements and exemptions from labeling requirements.
- Establish requirements for storing treated wood waste including:
  - Access control.
  - Storage under tarps.
  - Storage in containers.
  - Storage in buildings.
  - Storage on a containment pad.
  - A performance standard for other types of storage.
  - Accumulation time limits.
  - Training requirements for employees handling treated wood waste.
  - Exemptions for household generated treated wood waste and short term accumulation at the site of generation.
- Establish requirements for off site shipments of treated wood waste including:
  - The consignee must agree to accept the shipment.
  - Authority to ship to an off site temporary accumulation area if the treated wood waste is transported by the generator, the generator's employees, or the generator's agent and the shipment uses a shipping paper containing specified information and the treated wood waste handler retains that document for three years.
  - A prohibition on transportation in a manner that fails to prevent unauthorized access; loss, dispersion, and leaching of TWW; protect the TWW from precipitation; and, under conditions normally incidental to transportation, prevent release of TWW to the environment.
- Establish standards for tracking treated wood waste from the generation or accumulation site, receipt of treated wood waste, and reporting of receipt of shipments. Additionally, the regulations direct DTSC to make the reports publicly available and require treated wood waste handlers to retain records. Households are exempted from recordkeeping requirements.
- Require large quantity (>10,000 lbs/year) generators of treated wood waste to obtain a hazardous waste identification number and to notify DTSC of exceeding that quantity limit.
- Establish authority and standards for specified treatment of treated wood waste including:
  - Allowing resizing for transportation under specified conditions.
  - Requiring protective handling of resized treated wood waste and sawdust.
  - Training of employees involved in resizing treated wood waste.
- Establish standards for disposing of treated wood waste. These standards conform to the statutory requirement that disposal in non-hazardous waste landfills continue under the same conditions under these regulations.

Under the proposed emergency regulations, which temporarily extend the current statutory management standards, treated wood wastes are exempted from hazardous waste management standards only when they are managed in accordance with specified handling and disposal requirements as discussed above. The specified requirements mandate that the treated wood wastes be managed to prevent releases to the environment and be disposed to an approved composite-lined landfill, which, in effect, prohibits burning and/or other treatment/disposal options that might pose a risk. The proposed emergency regulations, therefore, provide management standards that address the specific hazards posed by treated wood wastes.

It should be noted that state law (HSC 25150.8) allows treated wood waste to be disposed to an approved composite-lined landfill; this law does not sunset. As a result, this project will not affect the final disposal of treated wood waste.

*The following is a description of the extent to which project activities would:*

- a. *Create a significant hazard to the public or the environment throughout the routine transport, use or disposal of hazardous materials.*

The proposed regulations do not regulate the use of treated wood nor the final disposal of treated wood waste. They establish alternative management standards for the accumulation and transfer of treated wood waste to final disposal. To ensure the safety of human health and the environment, the alternative standards provide labeling and accumulation standards specifically adapted to the risk associated with treated wood waste. Labeling provides notification to persons that may come in contact with accumulated treated wood waste. Accumulation standards minimized releases to the environment by requiring storage conditions that prevent leaching of wood preserving chemicals to soil or water and by limiting the time that treated wood waste may be stored prior to disposal.

- b. *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.*

Treated wood waste being a non-volatile non-reactive solid poses a risk to human health and the environment through relatively slow processes of leaching to soil and water. Because of its physical and chemical nature, treated wood waste is not susceptible to spillage or leakage unless it is finely divided by some form of processing (e.g., grinding or chipping) – which is prohibited by the proposed regulations.

- c. *Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school.*

Treated wood waste is typically generated by the removal of treated wood products from service. All products used to preserve wood must be registered by DPR, which conducts an EIR equivalent review of the product to ensure, among other things, that treated wood product do not emit hazardous emissions.

The proposed regulations do not site facilities or require construction that would impact schools. Schools may, however, generate treated wood waste, and the proposed regulations contain management controls intended to limit contact and prevent releases.

- d. *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to public or the environment.*

The propose regulations do not site facilities or require construction at identified hazardous material sites, but existing hazardous material sites may also generate or handle treated wood waste. However, the proposed regulations prohibit activities that might cause emissions and include requirements that ensure safe handling of treated wood waste.

- e. *Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.*

The propose regulations do not site facilities or require new construction. The regulations do require that any business handling treated wood waste ensure that employees are trained and familiar with safe handling procedures.

*References:*

Health and Safety Code, section 25150.7, Treated wood waste; legislative findings and declarations; disposal; landfill requirements; exemptions; posting of warnings by wholesaler or retailer; regulations; compliance

Health and Safety Code, section 25150.8, Treated wood waste accepted by solid waste landfill deemed solid waste, not hazardous waste

California Code of Regulations, title 22, division 4.5.

40 Code of Federal Regulations, Chapter 1, Subchapter I, Part 260 et seq.

Western Wood Preservers Institute, Economic Analysis of Regulating Treated Wood Waste as Hazardous Waste in California,

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **8. Hydrology and Water Quality**

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*Project activities evaluated for potential environmental impact:*

Establish alternative management standards for treated wood waste that include the following requirements:

- Prohibits activities that increase risk to human health and the environment;
- Requires treated wood waste to be labeled;
- Requires treated wood waste to be maintained in a manner that prevents unauthorized access and minimizes release to the environment;
- Prohibits the transfer of treated wood waste to a place other than an approved treated wood waste facility;
- Specifies what facilities may accept treated wood waste;
- Requires that generators and handler maintain a record of treated wood waste shipments;
- Requires that treated wood waste facilities report treated wood waste shipments;
- Requires that large treated wood waste generators (>10,000 pounds per year) notify DTSC;
- Authorizes “resizing to facilitate transportation” and “sorting and segregation;” and
- Requires that final disposal is to an approved composite-lined landfill as specified in statute (HSC section 25150.7(d)).

*Regulatory setting:*

Water quality in California is regulated by the State Water Resources Control Board (SWRCB) and nine Regional Water Quality Control Boards (RWQCBs). The SWRCB establishes water quality standards and objectives statewide for both surface and ground water. Each of the nine RWQCBs establishes additional requirements for water quality within their jurisdictions based on local conditions and beneficial uses of the waters. In addition, the RWQCBs issue National Pollutant Discharge Elimination System (NPDES) permits/Waste Discharge Requirements (WDRs) for discharges to land and water as necessary to ensure compliance with federal and state water quality laws and regulations.

### *Analysis of Potential Impacts:*

Discharges to land, water, sewers, septic systems, or wastewater treatment plants are prohibited under the proposed regulations so there will be no impact to water resources from routine management of the treated wood wastes in accordance with the proposed alternative management standards. In addition, no surface water or groundwater resources are necessary to implement the regulations as proposed. Finally, the regulations do not require construction of new facilities or infrastructure that would impact water quality, water resources or hydrologic conditions.

It is possible that new intermediate accumulation facilities may be built in response to promulgation of the proposed regulations. However, any new construction undertaken in response to the proposed regulations would be subject to local land use, zoning, building, and construction requirements and would have to be permitted or authorized in accordance with CIWMB regulation. New construction would also be subject to local, State and federal environmental requirements, including CEQA review and would result in constraints on discharges that might impact water resources or hydrologic systems. In addition, the proposed regulations require that treated wood waste be managed so as to prevent release to the environment.

Impacts to water resources might occur in the event of burning or inappropriate treatment of treated wood waste. However, the proposed regulations prohibit these activities and require that treated wood waste is prevented from contacting the ground and is protected from run on, run off, and precipitation. The regulations further prohibit disposal or discharge to other than an approved composite-line landfill. These provisions established in the proposed regulations will ensure that water quality and water resources are not significantly impacted from management of treated wood waste under the alternative management standards.

Under the proposed emergency regulations, which temporarily extend the current statutory management standards, treated wood wastes are exempted from hazardous waste management standards only when they are managed in accordance with specified handling and disposal requirements as discussed above. The specified requirements mandate that the treated wood wastes be managed to prevent releases to the environment and be disposed to an approved composite-lined landfill, which, in effect, prohibits burning and/or other treatment/disposal options that might pose a risk to water resources. The proposed emergency regulations, therefore, provide management standards that address the specific hazards posed by treated wood wastes to water resources.

It should be noted that state law (HSC 25150.8) allows treated wood waste to be disposed to an approved composite-lined landfill; this law does not sunset. As a result, this project will not affect the final disposal of treated wood waste:

Consequently, DTSC has determined that implementation of the proposed regulations will not have a significant impact on water resources, water quality, or hydrologic conditions in the state.

*The following is a description of the extent to which project activities would:*

- a. *Violate any water quality standards or waste discharge requirements.*

The proposed regulations prohibit discharges to land, water, sewers, septic systems, or wastewater treatment plants. In addition, all treated wood wastes must be managed so as to prevent releases to the environment. Accumulated treated wood waste must be protected from run on, run off, and precipitation thereby preventing any remaining preserving chemicals from leaching to water resources. Because discharges and releases are prohibited, adoption and implementation of the proposed regulations is not expected to violate of any water quality standards or waste discharge requirements.

- b. *Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficient in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).*

The proposed regulations do not require use of surface or groundwater resources beyond what is normally used by households or businesses. Therefore, groundwater supplies or recharge will not be substantially depleted or interfered with by adoption and implementation of the proposed regulations.

- c. *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site;*
- d. *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site;*
- e. *Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; and*

f. *Otherwise substantially degrade water quality.*

Construction of facilities or infrastructure that would alter existing drainage patterns is not required or mandated by the proposed regulations. Any new construction undertaken in response to the proposed regulations would be subject to local land use, zoning, building, construction, and environmental requirements, including any erosion control requirements. The proposed regulations, therefore, would not substantially alter existing drainage patterns.

g. *Place within a 100-flood hazard area structures which would impede or redirect flood flows.*

The proposed regulations do not require construction of facilities or infrastructure. However, accumulation facilities accepting waste from other handlers may be constructed in response to the proposed regulations. Under the proposed regulations, both existing and new accumulation facilities (accepting waste from other handlers) must be permitted or authorized as solid waste facilities in accordance with CIWMB regulations. All issues regarding the location of a proposed facility, including flood plain, are reviewed prior to authorization as a solid waste facility. In addition, construction of new solid waste facilities would be subject to local land use, zoning, building, construction, and environmental requirements, including floodplain or high tide construction requirements. While these requirements will vary statewide, most flood prone urban areas will have established floodplain or tidal area construction requirements to prevent and control impacts from flooding. In addition, most urban areas bordering 100-year floodplains must consider flood control measures or other development requirements in order to qualify for Federal Emergency Management Agency (FEMA) assistance and participation in the National Flood Insurance Program. Therefore, implementation of the proposed regulations should not cause the placement of structures within 100-year floodplains that would impede flood flows.

h. *Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.*

The proposed regulations do not require construction of facilities or infrastructure. As discussed above, new waste accumulation facilities may be constructed in response to the proposed regulations; however, these facilities would be subject to local land use, zoning, building, construction, and environmental requirements, including levee or dam failure considerations. While these requirements will vary statewide, most flood-prone urban areas have established floodplain or tidal area construction requirements to prevent and control impacts from flooding under any condition. Therefore, implementation of the proposed regulations should not expose people or structures to risk due to flooding resulting from levee or dam failure.

*I. Inundation by seiche, tsunami, or mudflow.*

The regulations do not require or mandate construction of facilities or infrastructure or address site-specific considerations such as inundation by seiche, tsunami, or mudflow. Existing solid waste facilities and construction of new solid waste facilities would be subject to local land use, zoning, building, construction, and environmental requirements. These local requirements will vary statewide according to local or regional weather conditions, geology, and geomorphology. For example, because seiches and tsunami are waves generated in lakes or oceans by large-scale land movements, such as seismic activity, only seismically active areas located near large water bodies are likely to enact requirements related to seiches or tsunami. In the same way, mountainous areas that experience high volume rainfall events are more likely to enact local requirements to address potential mudflows (such as hill slope drainage and stabilization requirements).

*References:*

Federal Clean Water Act, Title 33, U.S.C. section 1251

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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**9. Land Use and Planning**

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*Project activities evaluated for potential environmental impact:*

None

*Regulatory setting:*

Local governments in California have the authority to adopt local ordinances and plans addressing land use within their jurisdictions. Local requirements will differ, however, because every local community has different types of resources, populations, and development goals and pressures.

Implementation of the proposed regulations does not directly result in or require construction of facilities or infrastructure. Beyond individual waste generators, collection and transfer of treated wood waste is authorized only at facilities permitted or authorized by CIWMB as solid waste facilities. In these instances, treated wood waste management activities would likely be incidental to the main

solid waste activity onsite. Existing and new facilities managing treated wood wastes would be subject to local zoning, land use, and planning requirements, including any public health, hazardous materials and resource conservation requirements.

While the proposed regulations do not address site-specific conditions and do not mandate or require construction of new facilities or infrastructure of any kind, it is possible that new intermediate accumulation facilities may be built in response to promulgation of the proposed regulations. However, any new construction undertaken in response to the proposed regulations would be subject to local land use, planning, zoning, building, construction, and environmental requirements. In addition, the proposed regulations require that any new facility first be permitted or authorized as a solid waste facility.

Any requests for local authorization to deviate from local zoning or land use requirements would be site-specific and subject to local requirements for environmental review and public participation. The requests for local authorization would not be a direct impact of the proposed regulations. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.*
  
- b. *Conflict with any applicable habitat conservation plan or natural community conservation plan.*

*References:*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **10. Mineral Resources**

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*Project activities evaluated for potential environmental impact:*  
None

*Analysis of Potential Impacts:*

The regulations do not include site specific facilities or mandate construction of infrastructure of any type (i.e., buildings, roads, or disposal facilities) that would require new or additional mineral resources or block access to mineral resources through regulation-related development or construction. In addition, any new structures that might be constructed to manage universal wastes would be subject to local land use, building, and resource use requirements.

Because the proposed regulations do not require or mandate new construction or construction of infrastructure that would use mineral resources or block access to mineral resources, implementation of the proposed regulations will not have an impact on mineral resources in the state. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; and*
- b. *Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **11. Noise**

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*Project activities evaluated for potential environmental impact:*

None

*Regulatory Setting:*

Local and regional agencies have the authority to establish noise requirements within their jurisdictions. Usually these requirements are associated with construction or industrial activities, but may also address disturbance of the peace in residential or business districts.

The impact of noise associated with a proposed solid waste facility is assessed during its CEQA review. Mitigation measures may be required.

Employee and worker noise exposure limits from industrial processes or business activities are overseen by Cal-OSHA and established in the California Code of Regulations, title 8, section 5096. In general, worker noise protection equipment is required when the sound levels exceed 90 decibels (dBA)

The proposed regulations do not site specific facilities or mandate construction of infrastructure of any type (i.e., buildings, roads, or disposal facilities) that would impact noise generation or groundbourne vibration in excess of ambient levels or standards. Any existing facilities or construction of new structures would be subject to local land use, building, and construction requirements, including noise ordinances, requirements for noise abatement and limits on hours of operation. Worker exposure to noise related to waste management activities is controlled through requirements for establishment and implementation of safe operation procedures and appropriate personal protective equipment as necessary.

Because new construction is not required by the proposed regulations and existing businesses or new construction would be subject to local operating and worker safety noise requirements, implementation of the proposed regulations will not cause any temporary or permanent noise impacts to persons or the environment. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would cause:*

- a. *Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;*
- b. *Exposure of persons to or generation of excessive groundbourne vibration or groundbourne noise levels;*
- c. *A substantial permanent increase in ambient noise levels in the vicinity above levels existing without the project; and*
- d. *A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.*

*References:*

*Findings of Significance:*

- Potentially Significant Impact

- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **12. Population and Housing**

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*Project activities evaluated for potential environmental impact:*  
None

*Analysis of Potential Impacts:*

Individuals and households may generate waste subject to regulation under the proposed regulations. However, the proposed regulations only address management standards for treated wood wastes. They do not site facilities, require construction or mandate staffing that would directly impact population or housing, or cause indirect impacts from new treated wood waste facilities. Consequently, the project will have no impact on population or housing in the state. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Induce substantial population growth in area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure);*
- b. *Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; and*
- c. *Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **13. Public Services**

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*Project activities evaluated for potential environmental impact:*  
None

While individuals and households may generate treated wood waste subject to regulation under the proposed regulations, the proposed regulations only

address management standards of the waste. They do not site facilities, require construction or mandate staffing that would significantly impact population, housing, or the need for new or altered public facilities or levels of service.

The accidental release of treated wood waste does not pose a significant impact to fire protection and emergency response public services because the waste is a non-volatile, non-reactive solid that may be easily collected and contained.

Waste management issues associated with treated wood waste should actually improve with implementation of the proposed regulations. The alternative management standards provide an efficient economical disposal process that streamlines the waste management/disposal process and will help remove treated wood wastes from municipal solid waste management systems and encourage proper disposal in approved composite-lined landfills.

Impacts to public services from illegal disposal will be reduced because the proposed regulations provide an economical streamlined management/disposal option for wastes found abandoned or during load check activities; utilize existing solid waste collection infrastructure; and authorize effective, economical, and protective collection of a waste stream that, potentially, may be generated by any household or business. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

a. *Result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:*

- *Fire protection*
- *Police protection*
- *Schools*
- *Parks*
- *Other public facilities*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **14. Recreation**

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*Project activities evaluated for potential environmental impact.*

None

Recreational facilities may generate significant quantities of treated wood waste as a result of deconstruction of piers, decks, fencing, signage, retaining walls, and ground contacting structures, but the regulations do not require construction or mandate staffing that would negatively impact the use of recreational facilities. The proposed regulations, in fact, would reduce costs and staffing requirements at recreational facilities by providing an economical streamline management/disposal process for handling treated wood wastes. Consequently, the project will have no impact on recreation in the state. Therefore, no further analysis is deemed necessary.

*The following is a description of the extent to which project activities would:*

- a. *Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; and*
- b. *Include recreational facilities or require construction or expansion of recreational facilities that might have an adverse physical effect on the environment.*

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **15. Transportation and Traffic**

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*Project activities evaluated for potential environmental impact.*

Establish alternative management standards for treated wood waste that include the following requirements:

- Prohibits activities that increase risk to human health and the environment;
- Requires treated wood waste to be labeled;
- Requires treated wood waste to be maintained in a manner that prevents unauthorized access and minimizes release to the environment;
- Prohibits the transfer of treated wood waste to a place other than an approved treated wood waste facility;
- Specifies what facilities may accept treated wood waste;

- Requires that generators and handler maintain a record of treated wood waste shipments;
- Requires that treated wood waste facilities report treated wood waste shipments;
- Requires that large treated wood waste generators (>10,000 pounds per year) notify DTSC;
- Authorizes “resizing to facilitate transportation” and “sorting and segregation;” and
- Requires that final disposal is to an approved composite-lined landfill as specified in statute (HSC section 25150.7(d)).

*Regulatory setting:*

Current statute (HSC section 25150.7(e)) exempts treated wood waste, managed as specified, from California Hazardous Waste Law. And in general, treated wood waste is also excluded from federal hazardous waste requirements. As a result, treated wood waste is not subject to the transportation requirements imposed on hazardous waste as regulated in California by DTSC and the federal DOT (for transportation of specified hazardous materials and wastes in interstate or intrastate commerce). The statutory exemption of HSC section 25150.7(e), however, has a sunset date that is coordinated with the mandated implementation date of the proposed regulations. As such, the proposed regulations will implement alternative management standards for treated wood waste as a replacement to the current statutory exemption from California Hazardous Waste Law.

*Analysis of Potential Impacts:*

Under the proposed regulations, management standards for treated wood waste would continue in a manner consistent with the current statutory requirements. Many of the requirements in the proposed regulation duplicate current statutory language. Other requirements fulfill or clarify mandates of HSC section 25150.7(g) which specify the parameters of the alternative management standards. While being consistent with the current statutory treated wood waste requirements, the alternative management standards of the proposed regulations are significantly different and less rigorous than existing requirements for hazardous waste. If adopted, the proposed regulations would, in effect, continue the current streamline handling requirements of HSC section 25150.7(e). If the alternative management standards of the proposed regulations are not adopted, the reduced handling requirements allowed in HSC section 25150.7(e) will sunset on December 31, 2006, and full hazardous waste management standards would apply to all treated wood waste meeting hazardous waste criteria requirements.

The main differences between the proposed regulations (which are similar to HSC section 25150.7 (e) requirements) and hazardous waste management

standards involve waste storage and transportation requirements. Under existing requirements, hazardous waste must be transported using a hazardous waste manifest and registered transporter. Implementation of the proposed regulations would allow treated wood waste, managed in accordance with the alternative standards, to be transported without the use of a hazardous waste manifest or registered transporter. Instead, the proposed alternative management standards require that treated wood waste be labeled and contained to prevent release and unintentional contact; existing solid waste infrastructure is authorized to accept and process treated wood waste for disposal to approved composite-lined landfills; and the movement of treated wood waste is documented by way of recordkeeping requirements placed on generators (handlers) and reporting requirements placed on facilities accepting treated wood waste.

### Tracking

The proposed regulations provide for waste tracking and record keeping. Treated wood waste handlers would be required to keep records of shipment sent and received. The record may take the form of a log, invoice, manifest, bill of lading, receipt, or other shipping document that gives the name and address of the originating waste handler, destination facility, the type and quantity of waste; and the date the waste was sent or received. Facilities accepting treated wood waste would be required to submit, to DTSC, semi-annual reports that include information similar to that required to be maintained in shipment records. Tracking of waste shipments could be accomplished through review of reports submitted by treated wood waste facilities and by reviewing handler and facility records.

### Transportation

The current statutory exemption (HSC section 25150.7(e)) does not require the use of a registered hazardous waste transporter to transport treated wood waste. The proposed regulations continue this practice but add a restriction that treated wood waste may only be transported to an approved treated wood waste facility. The proposed regulations further specify the procedures by which a generator may consolidate remotely generated treated wood waste prior to transportation to an approved facility.

### Storage

The proposed regulations require that treated wood waste be maintained in a manner that prevents unauthorized access and, to the extent practical, prevents contact with and leaching to soil or water.

Under the proposed emergency regulations, which temporarily extend the current statutory management standards, treated wood wastes are exempted from hazardous waste management standards only when they are managed in accordance with specified handling and disposal requirements as discussed above. The specified requirements mandate that the treated wood wastes be managed to prevent releases to the environment and be disposed to an

approved composite-lined landfill, which, in effect, prohibits burning and/or other treatment/disposal options that might pose a risk. The proposed emergency regulations, therefore, provide management standards that address the specific hazards posed by treated wood wastes.

It should be noted that state law (HSC 25150.8) allows treated wood waste to be disposed to an approved composite-lined landfill; this law does not sunset. As a result, this project will not affect the final disposal of treated wood waste.

Consequently the alternative management standards of the proposed regulations continue the current statutory handling protocols allowing transportation of treated wood waste without use of a hazardous waste manifest or registered hazardous waste transporter and will have no significant effect on transportation or traffic.

*The following is a description of the extent to which project activities would:*

- a. *Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections).*

The proposed regulations provide streamlined management standards for treated wood wastes. They do not address site-specific conditions and do not mandate or require construction of new facilities or additional infrastructure that would significantly impact transportation infrastructure or services. Under the alternative management standards proposed in these regulations, treated wood waste may be accumulated in excess of one year in order to accumulate such quantities of treated wood wastes necessary to facilitate disposal. This flexibility in accumulation time is similar to the existing statutory standards for low risk waste and is significantly longer than the accumulation time limits for hazardous waste.

Consequently, the number of treated wood waste shipments will likely be unchanged by the proposed regulations and would be somewhat less should treated wood waste be managed as a hazardous waste. Therefore, the project would not cause an increase in traffic.

- b. *Exceed, either individually or cumulatively, a level of service standard established by the country congestion management agency for designated roads or highway.*

Because the proposed regulation do not affect the volume of treated wood waste and do not significantly effect the number of shipments of treated wood, implementation of the proposed regulations will not exceed the levels of service currently established for roads or highways.

- c. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

The proposed regulations do not address or include requirements applicable to road design features or incompatible vehicle use.

- d. *Result in inadequate emergency access;*
- e. *Result in inadequate parking capacity; and*
- f. *Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).*

For the reasons discussed in the “Analysis of Potential Impacts” section above and in the analyses of impacts for a., b., and c. above, the project would not cause impacts in the areas identified in d., e., and f.

*References:*

Health and Safety Code, section 25150.7, Treated wood waste; legislative findings and declarations; disposal; landfill requirements; exemptions; posting of warnings by wholesaler or retailer; regulations; compliance

Health and Safety Code, section 25150.8, Treated wood waste accepted by solid waste landfill deemed solid waste, not hazardous waste

California Code of Regulations, title 22, division 4.5.

49 Code of Federal Regulations, Subchapter C, Hazardous Materials Regulations, Part 171 et seq.

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

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## **16. Utilities and Service Systems**

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*Project activities evaluated for potential environmental impact:*

Establish alternative management standards for treated wood waste that include the following requirements:

- Prohibits activities that increase risk to human health and the environment;

- Requires treated wood waste to be labeled;
- Requires treated wood waste to be maintained in a manner that prevents unauthorized access and minimizes release to the environment;
- Prohibits the transfer of treated wood waste to a place other than an approved treated wood waste facility;
- Specifies what facilities may accept treated wood waste;
- Requires that generators and handler maintain a record of treated wood waste shipments;
- Requires that treated wood waste facilities report treated wood waste shipments;
- Requires that large treated wood waste generators (>10,000 pounds per year) notify DTSC;
- Authorizes “resizing to facilitate transportation” and “sorting and segregation;” and
- Requires that final disposal is to an approved composite-lined landfill as specified in statute (HSC section 25150.7(d)).

*Analysis of Potential Impacts:*

As noted above, the project is the promulgation and statewide implementation of regulations prescribing alternative management standards for treated wood wastes. The regulations do not require construction or mandate staffing that would significantly impact utilities and service systems.

Development of these regulations is mandated by statute (HSC section 25150.7(g)) which also mandates that disposal of treated wood waste managed in accordance with the alternative standards shall be to an approved composite-lined landfill. Discharges to land, water, sewers, septic systems, or wastewater treatment plants are prohibited under the proposed regulations so there will be no impact to wastewater treatment requirements or system facilities from routine management of treated wood wastes. In addition, no surface water or groundwater resources are necessary to implement the regulations as proposed so there would be no impact on water supplies.

While the proposed regulations do not address site-specific conditions and do not mandate or require construction of new facilities or infrastructure of any kind, it is possible that new intermediate accumulation facilities may be built in response to promulgation of the proposed regulations. However, any new construction undertaken in response to the proposed regulations would be subject to local land use, zoning, building, construction, and environmental requirements, including requirements related to water supplies, stormwater discharges, and wastewater discharges.

Waste management issues associated with treated wood waste should actually improve with implementation of the proposed regulations. The alternative management standards provide an efficient economical disposal process that

streamlines the waste management/disposal process and will help remove treated wood wastes from municipal solid waste management systems and encourage proper disposal in approved composite-lined landfills.

Impacts to public services from illegal disposal will be reduced because the proposed regulations provide an economical streamlined management/disposal option for wastes found abandoned or during load check activities; utilize existing solid waste collection infrastructure; and authorize effective, economical, and protective collection of a waste stream that, potentially, may be generated by any household, business, or agency.

Under the proposed emergency regulations, which temporarily extend the current statutory management standards, treated wood wastes are exempted from hazardous waste management standards only when they are managed in accordance with specified handling and disposal requirements as discussed above. The specified requirements mandate that the treated wood wastes be managed to prevent releases to the environment and be disposed to an approved composite-lined landfill, which, in effect, prohibits burning and/or other treatment/disposal options that might pose a risk. The proposed emergency regulations, therefore, provide management standards that address the specific hazards posed by treated wood wastes.

It should be noted that state law (HSC 25150.8) allows treated wood waste to be disposed to an approved composite-lined landfill; this law does not sunset. As a result, this project will not affect the final disposal of treated wood waste.

*The following is a description of the extent to which project activities would:*

- a. *Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.*

The proposed regulations do not require or mandate wastewater discharges to land or to sewers/wastewater treatment facilities. In addition, any existing business or new construction that might manage treated wood wastes would be subject to local wastewater discharge requirements. Because the regulations prohibit releases or discharges of treated wood waste and all other discharges would be subject to wastewater discharge requirements, implementation of the proposed regulations will not cause RWQCB wastewater treatment requirements to be exceeded.

- b. *Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.*

The proposed regulations do not require or mandate water deliveries or discharges to sewers/wastewater treatment facilities and therefore, will not

require or create the need for new or expanded facilities. Any existing business or new construction that might manage treated wood wastes would potentially be subject to local water and wastewater facility requirements as a function of routine business operation, but operation of these businesses is not expected to impact the need for new or expanded water or wastewater facilities.

- c. *Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.*

The proposed regulations do not require, mandate, or allow discharges to storm water drainage facilities, and, therefore, will not require or create a need for new or expanded stormwater drainage facilities. Any existing business or new construction that might manage treated wood wastes would potentially be subject to local stormwater management requirements as a function of business operation, but operation of these businesses is not expected to impact the need for new or expanded stormwater drainage facilities.

- d. *Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed.*

The proposed regulations do not address, require, mandate, or directly effect water supplies, deliveries, or entitlements, and, therefore, will not create a need for new or expanded water resources or entitlements. Any existing business or new construction that might manage treated wood wastes would likely use available water supplies as a function of business operation, but operation of these businesses is not expected to impact the need for new or expanded water resources or entitlements.

- e. *Result in determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments.*

The proposed regulations do not allow releases or discharges of treated wood waste to wastewater treatment facilities, and, therefore, will not impact wastewater treatment capacity determinations. Any existing business or new construction that might manage treated wood waste would likely discharge wastewater to wastewater treatment facilities via the sewer as a function of business operation, but operation of these businesses is not expected to impact determinations of adequacy of wastewater treatment capacity.

- f. *Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs.*

The proposed regulations establish alternative management standards for treated wood waste. Disposal of these wastes to approved composite-lined landfills is mandated by statute (HSC section 25150.7(d) & (g)) and is, therefore, beyond the scope of this project. All other impacts to landfill capacities would be the result of incidental business/facility operations and should not significantly impact landfill capacities.

If the proposed regulations are not adopted and the current statutory exemptions are allowed to expire, all treated wood waste would have to be managed as hazardous waste. It is expected that under hazardous waste requirements, a significant percentage of treated wood waste would be disposed to hazardous waste landfill. Treated wood waste represents a large waste stream relative to total California hazardous waste volumes. Total California hazardous waste landfill capacity is limited. The addition of a waste stream of significant volume would result in near-future capacity deficiencies at hazardous waste landfills.

*g. Comply with federal, state, and local statutes and regulations related to solid waste.*

The proposed regulations establish alternative management standards for treated wood waste only. TWW is a hazardous waste unless accepted for disposal by an approved composite-lined solid waste landfill. Once accepted, the TWW becomes a solid waste. The regulations are authorized by statute (HSC section 25150.7(g)) and are fully consistent with existing solid waste statutes and regulations.

*References:*

Health and Safety Code, section 25150.7, Treated wood waste; legislative findings and declarations; disposal; landfill requirements; exemptions; posting of warnings by wholesaler or retailer; regulations; compliance

Health and Safety Code, section 25150.8, Treated wood waste accepted by solid waste landfill deemed solid waste, not hazardous waste

*Findings of Significance:*

- Potentially Significant Impact
- Potentially Significant Unless Mitigated
- Less Than Significant Impact
- No Impact

**Finding of De Minimis Impact to Fish, Wildlife and Habitat**

*In the Explanation and Supporting Evidence section below, provide substantial evidence as to how the project will have **no potential adverse effect** on the following resources:*

- a. Riparian land, rivers, streams, watercourse, and wetlands under state and federal jurisdiction.*
- b. Native and non-native plant life and the soil required to sustain habitat for fish and wildlife.*
- c. Rare and unique plant life and ecological communities dependent on plant life.*
- d. Listed threatened and endangered plants and animals and the habitat in which they are believed to reside.*
- e. All species of plants or animals as listed as a protected or identified for special management in the Fish and Game Code, the Public Resources Code, the Water Code, or regulation adopted there under.*
- f. All marine and terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside.*
- g. All air and water resources the degradation of which will individually or cumulatively result in a loss of biological diversity among the plants and animals residing in that air and water.*

#### *Explanation and Supporting Evidence*

This project is the promulgation and statewide implementation of regulations governing the management of treated wood wastes. The regulations do not address site-specific conditions and do not require or mandate construction of new facilities or infrastructure (i.e., buildings, roads, or disposal facilities) that would impact biological resources. Because the proposed regulations do not address site-specific conditions or construction projects that would directly impact biological resources, any potential impacts would likely be indirect impacts resulting from the leaching of chemicals from the treated wood waste. The proposed regulations address the management of treated wood waste from the point of generation until final disposal to an approved composite-lined landfill. Disposal to an approved composite-lined landfill is mandated by statute (HSC section 25150.7(d) & (g)) and is, therefore, not a part of this project. The use of treated wood products is also not a part of this project.

Once the treated wood is determined to be a waste, the proposed regulations require, among other things, that the waste be contained or controlled so as to

prevent release to the environment. The proposed regulations prohibit discharges to land, water, sewers, septic systems, or wastewater treatment plants; prohibit burning and unauthorized treatment of treated wood waste; and require that TWW waste be labeled to prevent unintentional contact and inappropriate disposal. These requirements are designed to prevent releases of wood preserving chemicals to air, soil, or water that might impact biological resources.

Any new construction undertaken in response to the proposed regulations would be subject to local land use, zoning, building, construction, and State and federal environmental requirements, including CEQA review. In particular, any new construction would be subject to discharge prohibitions and controls established by State and federal agencies implementing the provisions of the federal Clean Water Act, including National Pollutant Discharge Elimination System (NPDES) discharge and storm water permits, and Section 404 permits regulating construction dredge and fill activities. In addition the proposed regulations require that facilities accepting and accumulating treated wood wastes be permitted or authorized in accordance with CIWMB regulations as a solid waste facility.

### Finding

Based on the explanation and supporting evidence provided above, DTSC finds that the project will have no potential for adverse effect, either individually or cumulatively, on fish and wildlife or the habitat on which it depends, as defined by section 711.2 of the Fish and Game Code.

### **Mandatory Findings of Significance**

Based on evidence provided in this Initial Study, DTSC makes the following findings:

- a. The project  has  does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.
- b. The project  has  does not have impacts that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

- c. The project  has  does not have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly.

**Determination of Appropriate Environmental Document**

Based on evidence provided in this Initial Study, DTSC makes the following determination:

The proposed project COULD NOT HAVE a significant effect on the environment. A **Negative Declaration** will be prepared.

The proposed project COULD HAVE a significant effect on the environment. However, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **Mitigated Negative Declaration** will be prepared.

The proposed project MAY HAVE a significant effect on the environment. An **Environmental Impact Report** is required.

The proposed project MAY HAVE a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **Environmental Impact Report** is required, but it must analyze only the effects that remain to be addressed.

The proposed project COULD HAVE a significant effect on the environment. However, all potentially significant effects (a) have been analyzed adequately in an earlier Environmental Impact Report or Negative Declaration pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier Environmental Impact Report or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed project. Therefore, nothing further is required.

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<b>DTSC Project Manager Signature</b>	<b>Title</b>	<b>Telephone #</b>
<b>Date</b>		

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<b>DTSC Branch/ Unit Chief Signature</b>	<b>Title</b>	<b>Telephone #</b>
<b>Date</b>		

ATTACHMENT A

INITIAL STUDY  
REFERENCE LIST  
for  
Alternative Management Standards for Treated Wood Waste  
(Reference Number R-05-04)

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1. California Air Resources Board website for information on criteria pollutants and toxic air contaminant information: <http://www.arb.ca.gov/>.
2. Health and Safety Code, section 25150.7, Treated wood waste; legislative findings and declarations; disposal; landfill requirements; exemptions; posting of warnings by wholesaler or retailer; regulations; compliance
3. Health and Safety Code, section 25150.8, Treated wood waste accepted by solid waste landfill deemed solid waste, not hazardous waste
4. California Code of Regulations, title 22, division 4.5.
5. 40 Code of Federal Regulations, Chapter 1, Subchapter I, Part 260 et seq.
6. Western Wood Preservers Institute, Economic Analysis of Regulating Treated Wood Waste as Hazardous Waste in California, [http://www.wwpinstitute.org/pdffiles/CAissues/ECONOMIC\\_ANALYSISFINAL.pdf](http://www.wwpinstitute.org/pdffiles/CAissues/ECONOMIC_ANALYSISFINAL.pdf)
7. Federal Clean Water Act, Title 33, U.S.C. sections 1251 et seq.
8. 49 Code of Federal Regulations, Subchapter C, Hazardous Materials Regulations, Part 171 et seq.