

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

AMPORTS, INC.  
1051 Tyler Street  
Benicia, California 94510

EPA ID: CAL000176122

Respondent.

Docket HWCA 20113769

CONSENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Amports (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates treated wood waste at 1007 Bayshore Road, Benicia, California 94510, and handles and stores treated wood waste at 1051 Tyler Street, Benicia, California 94510.

1.3. Inspection. The Department inspected the Site on December 1, 2010.

1.4. Authorization Status. Respondent is a generator of treated wood waste. Respondent generates treated wood waste containing Chemozite® ACZA (Ammoniacal Copper Zinc Arsenate).

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits to the factual allegations as set out below in Section 2: Violations Alleged.

## 2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.2 Respondent violated California Code of Regulations, title 22, sections 67386.3(a)(3) and 67386.6(a)(2)(B)(1) in that on or about December 1, 2011 Amports commingled previously segregated TWW with non-TWW in a roll-off bin used to accumulate the material prior to disposal. Additionally, Amports failed to keep the aforementioned roll-off bin closed in order to prevent identifiable releases of TWW under conditions normally incidental to handling.

2.3 Respondent violated California Code of Regulations, title 22, section 67386.5 in that on or about December 1, 2011, Amports failed to clearly label each unit of TWW and/or the area designated for TWW accumulation.

2.4 Respondent violated California Code of Regulations, title 22, section 67386.7 and Health and Safety Code, section 25189.2, subdivision (c) in that on or about December 1, 2011, Amports shipped TWW sawdust to a non-TWW facility, without notifying the receiving facility and without their approval.

2.5. Respondent violated California Code of Regulations, title 22, section 67386.6(a) in that on or about December 1, 2011, Amports failed to prevent the release of TWW sawdust and its hazardous constituents to the environment.

### 3. SCHEDULE FOR COMPLIANCE

3.1. Respondent has corrected the violations set forth above.

3.1.1. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

### 4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4 Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

#### 5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$12,000.00.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Dr. Sangat Kals  
Section Chief  
State Oversight & Enforcement Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
8800 Cal Center Dr.  
Sacramento, CA. 95826

and

Joseph Smith, Staff Counsel III  
Legal Affairs  
Department of Toxic Substances Control  
1001 I Street, Legal Affairs MS 23  
PO BOX 2815  
Sacramento, CA 95812

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: March 13, 2012

Original signed by Jimmy Triplett Sr. V.P Operations, West Respondent, AMPORTS, INC

Dated: March 28, 2012

Original signed by Paul S. Kewin for Sangat Kals  
Dr. Sangat Kals  
Section Chief  
State Oversight & Enforcement Branch  
Statewide Compliance Division  
Department of Toxic Substances Control