

Treated Wood Waste Alternative Management Standards – Response to Comments
 DTSC Reference Number: R-2005-04

Commenter Comment #		Comment	Response
White, Charles A., P.E. Waste Management (WM)			Commenter presented oral statements during a public hearing on January 8, 2007. Those statements paraphrased written comments submitted by the commenter and contained no arguments or contentions beyond those incorporated in the written version.
WM	A-1	The commenter generally supports the proposed regulations as they are currently written.	The comment does not suggest a change. DTSC appreciates the support and the effort to review and comment on these proposed regulations.
WM	A-2	The commenter states that the regulations are unclear as to the obligation of a solid waste facility receiving solid waste containing incidental amounts of treated wood waste or concealed treated wood waste. Commenter proposes language that would specify that incidental and concealed treated wood waste is not subject to the proposed regulations. Commenter further states that failure to include such language could result in inappropriate enforcement against the receiving facilities.	<p>Treated wood waste is specifically defined in section 67386.4 and requires, among other things, that the wood waste be a hazardous waste pursuant to California Code of Regulations, title 22, division 4.5. As a hazardous waste, treated wood waste is first subject to California hazardous waste requirements; generators and handlers may choose to comply with the alternative management standards regulations. A person who is in compliance with the alternative management standards regulations is deemed to be in compliance with hazardous waste requirements.</p> <p>The alternative management standards regulations do not specifically address load check activities in which small amounts of treated wood may be found mixed in loads of solid waste received at a solid waste facility. In these cases, existing hazardous waste requirements apply, and no additional requirements have been added by the regulations. Under the California Hazardous Waste Control Law, the generator of a waste is required to determine if the waste is hazardous. That determination is typically based on a "representative sample" of the waste "as generated." If a solid waste facility receives a load identified by the generator as solid waste but on inspection has reason to believe that the load is hazardous waste, the facility, as a solid waste facility is not authorized to accept</p>

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			<p>hazardous waste and must reject the load. However, for a load to meet hazardous waste criteria the amount of treated wood present in a mixed load would have to be significant or large enough to cause the entire load to test hazardous. Incidental amounts of treated wood would not be expected to result in the entire load being characterized as hazardous waste. Therefore, a solid waste facility would be authorized to accept the load. Load check requirements of other agencies may apply, and any treated wood waste segregated from solid waste load check activities could be managed in accordance with the alternative management standards regulations.</p> <p>Specified solid waste facilities may choose to become treated wood waste facilities by complying with the regulations. These facilities would then be authorized to accept treated wood waste, which by definition means that the load contains enough treated wood to cause the entire load to meet hazardous waste criteria.</p>
WM	A-3	Commenter states that only the generator is in a position to reliably identify treated wood waste.	DTSC agrees that the generator is in the best position to reliably identify treated wood waste. Facilities (and individuals) are, however, subject to the California Hazardous Waste Control Law, which prohibits a facility from knowingly accepting hazardous waste without appropriate authorization.
WM	A-4	Commenter states that disposal of incidental and concealed treated wood waste to landfills not meeting the Class I or composite-lined requirements of the proposed regulations is appropriate and protective of human health and the environment.	The regulations apply only to "treated wood waste" which is specifically defined as a hazardous waste. Incidental quantities of treated wood would not be expected to result in an entire load being characterized as hazardous waste. Therefore, requirements of the regulations, including disposal restrictions, would not apply.

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WM	A-5	Commenter states that generators who inappropriately manage treated wood waste should be held accountable rather than the solid waste service provider.	DTSC agrees that the generator is in the best position to reliably identify treated wood waste. Existing regulations, in fact, require the generators of waste to determine if that waste is hazardous waste. Facilities (and individuals) are, however, subject to the California Hazardous Waste Control Law, which prohibits a facility from knowingly accepting hazardous waste without appropriate authorization.
WM	A-6	Commenter states that the definition of "release" in the proposed regulation is too broad and applies to releases unrelated to treated wood waste. Commenter suggests language that would limit requirements associated with a release to cases in which there is a potential for release of constituents contained in treated wood waste to the environment.	<p>The term "release" is used in the context of a "release that is verified." This context is consistent with Health and Safety Code (HSC) § 25150.7(d)(2)(C) which uses the term "verified release." DTSC interprets the legislature's intent of the term "verified release" to be consistent with that term's use in the Water Quality Monitoring and Response Programs for Waste Management Units pursuant to California Water Code and the implementing regulations, including 27 CCR § 20420.</p> <p>Additionally language making more specific the definition of release, violates the statutory directive found in HSC § 25150.7(g)(3). The requirements for solid waste facilities accepting treated wood waste are mandated in statute, including the specific clause addressing "releases" (HSC § 25150.7(d)(2)(C)), DTSC cannot amend the legislature's meaning. The legislature specifically prohibits DTSC from modifying treated wood waste disposal requirements in HSC § 25150.7(g)(3). The proposed change is outside of the scope of the proposed regulations.</p>
WM	A-7	Commenter states that hazardous waste disposal fees do not apply to treated wood waste disposed in accordance with the proposed regulation to a solid waste landfill	The regulations implement the legislative mandate of HSC § 25150.7(g). The question of the applicability of hazardous waste disposal fees arises as a result of HSC § 25150.8. Interpretation of the legislature's intent in this section is, therefore, beyond the scope of the regulations. However, HSC § 25150.8 states that treated wood

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		or a solid waste unit of a class I hazardous waste landfill.	waste "accepted by a solid waste landfill" and disposed appropriately becomes a solid waste. Solid wastes are not subject to hazardous waste disposal fees.
WM	A-8	Commenter further states that hazardous waste disposal fees do not apply to treated wood waste disposed in accordance with the proposed regulation to a class I hazardous waste landfill.	The regulations implement the legislative mandate of HSC § 25150.7(g). The question of the applicability of hazardous waste disposal fees arises as a result of HSC § 25150.8. Interpretation of the legislature's intent in this section is, therefore, beyond the scope of the regulations. However, HSC § 25150.8 states that treated wood waste "accepted by a solid waste landfill" and disposed appropriately becomes a solid waste. Solid wastes are not subject to hazardous waste disposal fees.
WM	A-9	Commenter states that treated wood waste is a hazardous waste and is, therefore, subject to hazardous waste generator fees.	The comment does not suggest a change.
Edgar, Evan W.R. California Refuse Removal Council (CRRC)			Commenter presented oral statements during a public hearing on January 8, 2007. Those statements paraphrased written comments submitted by the commenter and contained no arguments or contentions beyond those incorporated in the written version.
CRRC	B-1	Commenter supports the overall objective of the proposed regulations.	The comment does not suggest a change. DTSC appreciates the support and the effort to review and comment on these proposed regulations.
CRRC	B-2	Commenter states that treated wood waste commingled with mixed construction and demolition (C&D) debris at the point of generation that remains commingled with municipal solid waste shall be treated as municipal	Solid waste containing small quantities of treated wood at the point of generation would typically not meet hazardous waste criteria. Hazardous waste requirements would, therefore, not apply. Furthermore, because the definition of "treated wood waste" requires that the waste meet hazardous waste criteria, the regulations would not apply. In these cases, the waste may be managed as a solid waste.

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	solid waste and be disposed of as a solid waste.	
CRRC	B-3 Commenter states that the 10,000 pound treated wood waste generation threshold is too low and would require all commercial facilities and haulers to acquire a hazardous waste Identification Number.	<p>The 10,000 pound threshold applies only to generators of treated wood waste. Therefore, haulers and facilities (that are not also generators) would not be subject to section 67386.9 requirements. As stated in the comment, facilities that also generate treated wood waste would typically already have identification numbers because of other regulatory requirements and facilities that receive treated wood waste need an Identification Number for reporting purposes under section 67386.8.</p> <p>The threshold applies to generators, but as discussed response to comment #B-2, most wood waste contains little or no treated wood when generated. Because such waste typically is not expected to meet hazardous waste criteria, the waste is not a hazardous waste and is, therefore, not subject to the regulations. As a result, a relatively small number of generators would meet the notification threshold. In cases in which all or a significant percentage of waste is treated wood, the waste would be characterized as a hazardous waste and would contain significant quantities of chemical constituents that pose a risk to human health and the environment. DTSC believes that notification, including the requirement of acquiring an Identification Number, is appropriate in these situations.</p>
CRRC	B-4 Commenter states that all construction and demolition recycling facilities conduct sorting and segregation of wood debris and that the proposed regulations	DTSC concurs with the commenter's interpretation that "sorting and segregation" activities are conditionally authorized by the regulation. However, facilities are not "exempt" from treated wood waste requirements. As stated in the response to comment #B-2, wood waste (or other solid waste) containing small amounts of treated

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		correctly authorize such activities.	<p>wood would typically not meet hazardous waste criteria and would, therefore, not be subject to hazardous waste requirements or the requirements of the regulations.</p> <p>When "sort and segregation" activities occur in which treated wood is separated from solid waste, that treated wood waste would be expected to meet hazardous waste criteria and would, from that point be subject to hazardous waste requirements. If that wood waste also met the definition of "treated wood waste," the facility would be eligible to manage the waste in accordance with the less onerous alternative management standards regulations.</p>
CRRC	B-5	Commenter recommends that all CalEPA boards, offices, and department post a list of landfills authorized to accept treated wood waste.	<p>Requiring other State agencies to post information is beyond the scope of authority granted to DTSC. However, California State Water Resources Control Board (SWRCB) maintains a list of landfills approved for treated wood waste disposal. A copy of the list is available at http://www.waterboards.ca.gov/cwphome/land/docs/twwsep06.pdf. DTSC maintains a website containing treated wood waste information at http://www.dtsc.ca.gov/HazardousWaste/Treated_Wood_Waste.cfm. The DTSC website contains a link to the most updated SWRCB list. DTSC supports the commenter's request that other agencies associated with treated wood waste also make landfill information more available. Having links from other agencies website to the SWRCB list ensures that most updated information is provided and most efficient use of resources.</p>
Pitto, Mary			

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Rural Counties Environmental Services Joint Powers Authority (ESJPA)		
ESJPA	C-1	<p>Commenter states that the proposed regulations are far more excessive than the standards imposed on other wastes such as universal wastes.</p>
		<p>The requirements of the proposed regulations are modeled on the requirements of universal waste. The proposed requirements that differ do so because of statutory requirements or to address specific physical or chemical characteristics of treated wood waste. The requirements of "Labeling," "Accumulation," and "Notification" are modeled on universal waste requirements with modification to address treated wood waste characteristics and handling logistics. "Scope," "Applicability," "Prohibited Activities," and "Disposal" duplicate statutory requirements (HSC § 25150.7). "Offsite Shipments," and "Tracking" fulfill statutory requirements prescribed in HSC § 25150.7(g). DTSC, therefore, disagrees with commenter.</p>
ESJPA	C-2	<p>Commenter states that the proposed regulations do not acknowledge the difficulty of identifying treated wood waste and should only apply to segregated treated wood waste.</p>
		<p>DTSC acknowledges the difficulty of identifying treated wood waste especially in situations where treated wood is mixed in a solid waste load. The regulations restate definitions from statute. "Treated wood" is defined in HSC 25150.7(b)(1). "Treated wood waste" is distinguished in HSC 25150.7(c). Therefore, altering the scope of the definition of "treated wood waste" is beyond the scope of the regulations.</p> <p>When implementing the regulations, DTSC will provide guidance to households and businesses regarding, among other things, identification of treated wood waste. As discussed in other responses, the regulations only apply to waste meeting the definition of treated wood waste (must first be a hazardous waste). The regulations do not change current load check requirements and typically would not apply to solid waste loads containing small</p>

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			amounts of treated wood.
ESJPA	C-3	Commenter states that the definition of "treated wood waste facility" should be expanded to include additional solid waste activities.	In consultation with the California Integrated Waste Management Board, DTSC reviewed the operations the commenter suggested and has clarified the definition of treated wood waste facility to include some small volume operations that may facilitate service in rural areas. DTSC concurs and has included in the definition of treated wood waste facility both "Limited Volume Transfer Operations (<60 cubic yards or 15 tons per day)" and "Small Construction and Demolition/Inert Debris Processing Operations (<25 tons per day)". These operations are subject to standardized conditions, inspections, and local agency approvals. The solid waste activities that are not included are "Recycling Centers," "Small Volume Construction and Demolitions Wood Debris Chipping and Grinding Operations," "Emergency Construction and Demolition/Inert Debris Processing Operations," and "Waste Hauling Yard Operations." DTSC believes this compromise will allow additional service options for rural counties but not include operations that may be inconsistent with the prohibitions in statute for treated wood waste.
ESJPA	C-4	Commenter states that all wood waste should be eligible for the alternative standards authorized by the proposed regulations unless there is evidence that the wood waste is ineligible for the alternative standards.	Eligibility for the alternative management standards regulations is dictated by the definition of "treated wood waste" which is prescribed in statute (HSC § 25150.7(c) and HSC § 25150.7(b)(1)). These definitions not only identify the eligibility of treated wood waste for alternative management standards, they also establish DTSC's authority to regulate the waste. DTSC, therefore, cannot "expand" the applicability of the regulation to wastes not meeting the definition of "treated wood waste" because DTSC does not have that authority.

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			As stated in other responses, solid waste containing small amounts of treated wood would not be expected to cause the waste to meet hazardous waste criteria and would, therefore, not be subject to hazardous waste requirements. In these cases, solid waste requirements apply and the alternative management standards regulations would be unnecessary.
ESJPA	C-5	Commenter states that the alternative standards should apply only to treated wood waste that has been identified and segregated.	Under the California Hazardous Waste Control Law, the generator of a waste is required to determine if the waste is hazardous. That determination is typically based on a "representative sample" of waste "as generated." If a solid waste facility receives a load identified by the generator as a solid waste but on inspection has reason to believe that the load is hazardous waste, the facility, as a solid waste facility is not authorized to accept hazardous waste and must reject the load. However, for a load to meet hazardous waste criteria, the amount of treated wood present in a mixed load would have to be large enough to cause the entire load to test hazardous. Incidental amounts of treated wood would not be expected to result in the entire load being characterized as hazardous waste. Therefore, a solid waste facility would be authorized to accept the load. Load check requirements of other agencies may apply, and any treated wood segregated from solid waste load check activities could be managed in accordance with the alternative management standards regulations.
ESJPA	C-6	Commenter supports the requirement that treated wood waste be labeled by the generator.	The comment does not suggest a change. DTSC appreciates the support and the effort to review and comment on these proposed regulations.
ESJPA	C-7	Commenter supports the	The comment does not suggest a change.

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	allowance for reuse of treated wood waste.	
ESJPA	C-8 Commenter states that the definition of "treated waste facility" fails to acknowledge that treated wood waste might be received at other solid waste operations and suggests that these operations be included in the treated wood waste facility definition.	See response to Comment # C-3.
ESJPA	C-9 Commenter states that requiring households to comply with labeling requirements is excessive and creates an unnecessary burden on local agencies that would enforce the requirement.	DTSC believes that the generator (including households) is in the best position to identify treated wood waste and that a label is appropriate in order to identify the treated wood waste and to warn those in proximity of the potential hazards. DTSC acknowledges that households are, in general, less knowledgeable of hazardous waste requirements and less likely to be in compliance. It should be noted that nothing in the regulations compels a generator to comply with the alternative management standards nor do the regulations change existing hazardous waste requirements applicable to households or to exemptions granted for household hazardous waste unless the households chooses to comply with the alternative management standards. The regulations are, however, a less onerous option.
ESJPA	C-10 Commenter states that the labeling exemption for households self-transporting treated wood waste is inconsistent with the basic labeling requirement and would make	The regulations authorize households to accumulate treated wood waste at the site of generation for a period of 30 days without labeling the waste. The regulations also authorize a household to self-transport treated wood waste to an approved facility if they identify the treated wood waste to the facility. These two exemptions

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	identification of treated wood waste at solid waste facilities more difficult.	are intended to allow for the inexperience of households with regards to hazardous waste requirements for situations that pose a lesser risk to human health and the environment (smaller quantities of treated wood waste with treatment chemicals at non-commercial concentrations).
ESJPA	C-11 Commenter supports the accumulation requirements for containers.	The comment does not suggest a change.
ESJPA	C-12 Commenter states that the requirement for businesses handling treated wood waste to provide training to employees is unclear.	<p>The comment does not identify the issue that is unclear. The comment may refer to the scope of the term "business" or to the phrase "handling treated wood waste." The term "business" is specifically defined in HSC § 25110.5 and clarified in HSC § 25110.8 and in 22 CCR § 66260.10. This definition is inclusive of all activities discussed during public workshops and considered during the rulemaking process. Businesses "handling treated wood waste" refers to businesses that accept, accumulate (store), transport, or manage wastes that meet the strict definition of "treated wood waste."</p> <p>In order to further clarify this requirement, DTSC has placed the training requirement in a new and separate section 67386.12. The word "business" has been changed to "employer" to more closely replicate the statutory language in HSC § 25150.7(g)(2)(F) and clarify that all employees involved in the acceptance, storage, transport, and other management of treated wood waste are required to be trained.</p>
ESJPA	C-13 Commenter states that entities other than businesses should be included under the accumulation	The term "business" is specifically defined in 22 CCR § 66260.10. This definition is inclusive of many activities other than private business in the sense of corporations, sole-proprietorships, etc...

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		exemption for incidental generation.	The commenter may believe that the word "business" is equivalent to "business concerns" which is also defined in section 66260.10. DTSC did not use the phrase "business concerns" to ensure that entities other than sole proprietorship, corporation, association, firm, partnership, trust or other form of commercial organization are also eligible for the accumulation exemption.
ESJPA	C-14	Commenter states that the amount of treated wood waste allowed under the incidental generation exemption for businesses should be increased to at least 10,000 pounds and should specify whether that limit is "on-site at any time" or "accumulated over a period of time."	DTSC believes that alternative management standards authorizing 10,000 pounds of treated wood waste to be accumulated "on-site at any time" without means to prevent release of hazardous constituents would be in violation of the statutory mandate of HSC § 25150.7(g)(2)(a) which states that the regulations "shall, at a minimum, ...to the extent practical, ...prevent releases of hazardous constituents to the environment" and would be inconsistent with the legislature's temporary alternative standards of HSC § 25150.7(e)(1)(D) that required protection from run-on and run-off and placement of a surface "sufficiently impervious" to prevent contact with the ground. DTSC believes that 1,000 pounds is appropriate.
ESJPA	C-15	Commenter states that a treated wood waste facility should be authorized to accept treated wood waste from a handler with or without a pre-agreement as specified in section 67386.7(b).	The regulations require the originating handler to "ensure that the receiving handler agrees to receive the shipment" prior to shipment. The regulations do not prohibit an approved facility from accepting a treated wood waste if the shipping handler violates this "prior agreement" requirement.
ESJPA	C-16	Commenter stated that the use of an estimated weight should be allowed in shipping documents that accompany treated wood waste being consolidated from remote	DTSC agrees that estimated weights may be used. Clarification will be included in implementation guidance and outreach.

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	sites in accordance with section 67386.7.	
ESJPA	C-17 Commenter states that the requirement to document the arrival date at a consolidation site in accordance with section 67386.7 is inconsistent with the use of the shipping document.	HSC § 25150.7(g) mandates that the regulations provide for tracking of treated wood waste; universal waste has no such requirement. The regulations will, therefore, differ from universal waste requirements. Section 67386.7(c) refers to a specific situation in which treated wood waste is initially collected at remote sites, and then transported to a consolidation site prior to final disposal. A record of the dates required by section 25150.7(g)(2)(C) is necessary in order to track the movement of treated wood waste in these situations and to document compliance with other requirements of the regulations.
ESJPA	C-18 Commenter states that the semi-annual reporting requirement is excessive and that report dates should be consistent with CRT and universal waste reporting. Commenter further states that reporting periods, submission dates and the term "Identification Number" are unclear.	HSC § 25150.7(g) mandates that the regulations provide for tracking of treated wood waste; universal waste has no such requirement. The regulations will, therefore, differ from universal waste requirements. Semi-annual reporting in combination with labeling, notification, and recordkeeping requirements is intended to allow for tracking of treated wood waste without requiring the use of hazardous waste manifest requirements, which workshop attendees identified as impractical for typical treated wood waste generators. Furthermore, HSC § 25150.7(k) requires DTSC to prepare a report documenting the compliance with, and implementation of the regulations. Semi-annual reports from treated wood waste facilities are needed in order to provide adequate data for completion of that report. Under the regulations, the first report is due by January 31, 2008 for the period July 1, 2007 through December 31, 2007 and continuing

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			<p>for each six month period thereafter.</p> <p>The term "Identification Number" is defined in 22 CCR 66260.10 and includes both the "federal ID number (EPA ID number)" and the state identification number; this number is commonly referred to as the "EPA ID number."</p>
ESJPA	C-19	Commenter states that weight estimates should be authorized for reporting of load check tonnage in accordance with section 67386.8(c).	DTSC concurs and will accept weight approximations for load check weight summaries.
ESJPA	C-20	Commenter states that term "Identification Number" as used in section 67386.9(c)(2) is unclear.	The term "Identification Number" is defined in CCR 66260.10 and includes both the "federal ID number (EPA ID number)" and the state identification number; this number is commonly referred to as the "EPA ID number."
Lee, G. Fred G. Fred Lee & Associates (Lee)			
Lee	D-1	Commenter states that the disposal requirements under the proposed regulations are inappropriate and will result in groundwater pollution by landfill leachate.	Disposal requirements for treated wood waste are prescribed in statute (HSC § 25150.7(d)). Furthermore, HSC 25150.7(g)(3) prohibits DTSC from superseding disposal requirements for treated wood waste. The comment is, therefore, beyond the scope of the regulations.
LaDoux, Ted J. Western Wood Preservers Institute (WWPI)			Commenter presented oral statements during a public hearing on January 8, 2007. Those statements paraphrased written comments submitted by the commenter and contained no arguments or contentions beyond those incorporated in the written version.

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WWPI	E-1	Commenter states that while the draft regulations contain many compromises, they represent the best interest of the public and industry and meet the intent of the treated wood waste legislation.	The comment does not suggest a change. DTSC appreciates the support and the effort to review and comment on these proposed regulations.
Halvax, Sandor BAE Systems (BAE)			
BAE	F-1	Commenter states that the proposed regulations are necessary for the cost-effective disposal of treated wood waste and provide appropriate protections.	The comment does not suggest a change. DTSC appreciates the support and the effort to review and comment on these proposed regulations.
BAE	F-2	Commenter suggests that DTSC provide updated guidance to authorized landfills regarding the proposed regulations.	Once the regulations are adopted, DTSC will provide additional guidance on the final regulations to authorized landfills and any other regulated entities.
Hanson, Chris Western Placer Waste Management Authority (Placer)			
Placer	G-1	Commenter states that recordkeeping requirements are excessive and overly cumbersome for landfill staff because treated	No additional requirements have been added by the regulations for the load check program. The alternative management standards regulations do not specifically address load check activities in which small amounts of treated wood may be found mixed in loads of solid

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	<p>wood waste may be received by facilities mixed with other wastes - load checking activities including identifying, segregating and weighing would be burdensome and difficult.</p>	<p>waste received at a solid waste facility. If treated wood waste is being identified and separated, existing hazardous waste requirements or the alternative management standards apply to this hazardous waste.</p> <p>The acceptance of treated wood waste is not mandated. The reporting requirement applies only to those solid waste facilities that choose to accept treated wood waste shipments. This reporting requirement and other alternative management standards are in lieu of hazardous waste permitting requirements for offsite hazardous waste storage. If a facility finds that it is overly cumbersome to comply with these requirements, the facility may choose to not handle this hazardous waste.</p>
Placer	G-2 Commenter states that semi-annual reporting is excessive and should be standardized with other annual reporting requirements.	See response to comment # C-18
Placer	G-3 Commenter states that the prohibition of commingling is impractical and unnecessary.	<p>DTSC believes that prohibiting the commingling of treated wood waste with other wastes if the treated wood waste was previously segregated, prior to disposal is consistent with the legislature's temporary alternative standards of HSC § 25150.7(e)(1)(E). This provision is necessary in the Alternative Management Standards to ensure that treated wood waste is not hidden in large volumes of other construction or other waste and sent to ineligible landfills.</p> <p>However, treated wood waste is sometimes generated in a manner that commingles it with other waste by the nature of the generating activity. For instance, demolition of a structure necessarily mingles</p>

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			all of the materials from the structure and it would neither be necessary nor reasonable to require that the demolition firm sort the pile of debris to remove any treated wood waste. The provision "...if previously segregated" recognizes that treated wood waste cannot always be segregated when generated.
Jay Norvell California Department of Transportation (CalTrans)			
CalTrans	H-1	Commenter requests that bulk containers of TWW be exempted from (section 67386.5, Labeling) the regulations when alternative methods such as a Material Data Safety Sheet are used.	Because treated wood waste is a hazardous waste, the California Hazardous Waste Control Law applies, including the requirement to affix a hazardous waste label. Under the Alternative Management Standards for treated wood waste, a hazardous waste Identification Number, manifest, and hazardous waste hauler are not required. DTSC, therefore, feels that the label is especially necessary to identify and ensure proper handling under these less rigorous standards.
CalTrans	H-2	Commenter states that the regulations should allow disposal containers to remain at the site until fully loaded, and suggests increasing time limits to allow this, or alternatively be exempted from the regulation on the 90-day time limit.	The accumulation time limit for storage in containers is one year. The 90-day time limit only applies to containers once they are filled.
CalTrans	H-3	Commenter also referred to comments submitted April 12,	Comments of April 12, 2006 and May 16, 2006 were submitted in response to previous versions of draft regulatory language. Because

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		2006 and May 16, 2006 and specifically identified “Sections 67386.6(2)(E) Employee Training, 67386.7 Manifesting and Tracking, and 67386.9 Notification.”	these comments refer to draft language that no longer exists, the commenter’s intent is unclear. Therefore, the comments appear to be outside the scope of the current proposal. Nevertheless, we have included the following responses to aspects of comments that may be relevant to current regulatory language.
Donald Fogle California Department of Transportation (CalTrans) Letter dated April 12, 2006 incorporated by reference.			
CalTrans	H-4	Commenter requested DTSC to consider the following options: 1) Continue the existing requirements found in HSC section 25150.7 after the sunset date of January 1, 2007; or 2) include CalTrans under the Utility Service Exemption; or 3) Manage TWW as universal waste.	<ol style="list-style-type: none"> 1) The legislature mandated DTSC to adopt regulations by January 1, 2007 establishing management standards for TWW as an alternative to the requirements specified in the hazardous waste control laws. The statutory standards were not meant to be permanent standards but were put in place temporarily to allow DTSC to adopt TWW regulations. 2) DTSC does not have the authority to extend a statutory exemption to CalTrans for TWW. Such an exemption would be beyond the scope of the regulations. 3) The requirements of the proposed regulations are modeled on the requirements of universal waste. The proposed requirements that differ do so because of statutory requirements or to address specific physical or chemical characteristics of treated wood waste. The requirements of “Labeling,” “Accumulation,” and “Notification” are modeled on universal waste requirements with modification to address treated wood waste characteristics and handling logistics. “Scope,” “Applicability,” “Prohibited Activities,” and “Disposal”

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			<p>duplicate statutory requirements (HSC § 25150.7). "Offsite Shipments," and "Tracking" fulfill statutory requirements prescribed in HSC § 25150.7(g).</p> <p>DTSC, therefore, disagrees with commenter that any of these options are viable under the statute.</p>
CalTrans	H-5	Commenter requests that bulk containers of TWW be exempted from (section 67386.5, Labeling) the regulations when alternative methods such as a Material Data Safety Sheet are used.	See response to Comment # H-1.
CalTrans	H-6	Commenter states that the regulations should allow disposal containers to remain at the site until fully loaded, and suggests increasing time limits to allow this, or alternatively be exempted from the regulation on the 90-day time limit.	<p>This language has been incorporated into the current regulations. The accumulation time limit for storage in containers is one year.</p> <p>The proposed Treated Wood Waste language dated February 27, 2006 limited storage in containers to only 90 days. Therefore, this comment is not relevant to current regulatory language.</p>
CalTrans	H-7	Commenter objected to the use of manifesting and tracking TWW when transporting.	The current regulatory language does not require the use of a hazardous waste manifest for tracking. Therefore, this comment is not relevant to current regulatory language.
<p>Jay Norvell California Department of Transportation (CalTrans) Letter dated May 16, 2006 incorporated by reference</p>			

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CalTrans	H-8	Commenter asked that bulk containers be exempt from DTSC labeling requirement when alternative identification methods are used.	See response to Comment # H-1.
CalTrans	H-9	Commenter asked if a governmental agency is considered a business or is it exempt from this requirement.	<p>The term "business" is specifically defined in HSC § 25110.5 and clarified in HSC § 25110.8 and in 22 CCR § 66260.10 and does not include government agencies.</p> <p>The word "business" will be changed to "employer" to more closely replicate the statutory language in HSC § 25150.7(g)(2)(F) and clarify that all employees involved in the acceptance, storage, transport, and other management of treated wood waste are required to be trained. DTSC will pull out the training requirement in a new and separate section, 22 CCR § 67386.12.</p> <p>Employers are required to comply with any applicable requirements of the California Occupational Safety and Health Act of 1973 (Chapter 1 (commencing with section 6300) of Part 1 of Division 5 of the Labor Code). If the employees are involved in the handling of hazardous waste. Treated wood waste is, by definition, a hazardous waste. This section of the regulation restates an existing requirement and is consistent with the statutory language.</p>
CalTrans	H-10	<p>Commenter recommends DTSC modify/clarify the reporting requirements as follows:</p> <p>1. Modify the word "handler" to "facility" or "site generator". Use of</p>	<p>1) The term "TWW handler" is defined as a person who handles, collects, processes, accumulates, stores, transfers, transports, treats, or disposes of TWW. The notification requirement applies only to a "TWW handler" that generates more than 10,000 pounds of TWW. DTSC does not believe that this applicability will result in duplicate reporting of the same waste.</p>

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	<p>the word "handler" will result in duplicate reporting of the same waste.</p> <p>2. Change the measurement of kilograms to tons. TWW is measured and recorded in tons at weight scales.</p> <p>3. Clarify if the "handlers" (facility) are required to submit an annual or onetime report to DTSC once the 5,000 kilogram limit is reached.</p> <p>4. Clarify if "handlers" (facility) will be exempt from reporting once an Environmental Protection Agency identification (EPA ID) number is used.</p> <p>5. If once an EPA ID number is used, does the TWW fall under the hazardous waste regulatory requirements for accumulation and transporting?</p>	<p>2) The current regulatory language does not use the term “kilograms” and refers only to “weight” and “pounds.” DTSC will provide clarification on weight conversions and weight estimates in implementation guidance and outreach.</p> <p>3) The notification requirement is for each calendar year in which a TWW handler generates more than 10,000 pounds. TWW handlers are required to submit an annual notification to DTSC within 30 days of meeting or exceeding the 10,000 pound limit.</p> <p>4) There is no exemption from notification reporting once an Identification Number (EPA ID) is used.</p> <p>5) Once an EPA ID number is used, TWW can be managed under this regulation (Treated Wood Waste Alternative Management Standards) or under the hazardous waste regulatory requirements for accumulation and transporting.</p> <p>The statutory language in HSC § 25150.7(h) states that “A person managing treated wood waste...shall comply with either the alternative standard specified in the regulations adopted pursuant to subdivision (g) or with the requirements of this chapter.”</p>

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Commenter Comment #		Comment	Response
Comment received in response to the 15-Day Public Notice			
Daphne B. Harley Kern County Waste Management Department Email dated March 16, 2007 (Kern)			
Kern	I-1	Commenter states that the use of the word “identifiable” to describe a potential release is unclear and suggests the clarifier be deleted.	The comment is outside the scope of the 15-day notice period in which it was submitted. However, the phrase describing the container requirement duplicates language found in title 22 of the California Code of Regulations section 67384.5, and in the general container requirements found in the title 49 of the Code of Federal Regulations.
Kern	I-2	Commenter states that segregating and reporting detailed generator and load check program information will be difficult, expensive and inaccurate for commingled loads and that storing TWW separately will require more	<p>The comment is outside the scope of the 15-day notice period in which it was submitted. However, we have generally addressed these concerns in our responses to comments numbered B-2, C-2, C-5, C-18, and G-1.</p> <p>The regulations apply to waste meeting the definition of treated wood and hazardous waste. The regulations would not typically apply to</p>

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	containers.	<p>solid waste loads containing small amounts of treated wood and do not change current load check requirements.</p> <p>DTSC acknowledges the difficulty of identifying treated wood waste and will provide guidance when implementing the regulations.</p> <p>HSC § 25150.7(g) mandates that the regulations provide for tracking of treated wood waste. Semi-annual reporting is intended to allow for tracking of treated wood waste without requiring the use of hazardous waste manifests. Furthermore HSC § 25150.7(k) requires DTSC to prepare a report documenting the compliance with, and implementation of the regulations. Semi-annual reports from treated wood waste facilities are needed in order to provide adequate data for completion of that report.</p> <p>The acceptance of treated wood waste is not mandated. The reporting requirement applies only to those solid waste facilities that choose to accept treated wood waste shipments. This reporting requirement and other alternative management standards are in lieu of hazardous waste permitting requirements for offsite hazardous waste storage. If a facility finds that it is overly cumbersome to comply with these requirements, the facility may choose to not handle this hazardous waste.</p> <p>The regulation does not require that TWW be stored in containers separated by program and generator. The use of additional containers would be at the discretion of the facility, based on operational need.</p>
		Comments were postmarked and received after the close of the

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Commenter Comment #	Comment	Response
G. Scott McGowen, Chief Environmental Engineer Department of Transportation Letter dated March 14, 2007 (postmarked April 4, 2007)		public comment period. Nevertheless, responses have been included
CalTrans	J-1	<p>Commenter requests clarification of section 67386.12 which requires compliance with the California Occupational Safety and Health Act. Commenter requests clarification in order to determine additional budget and staffing requirements.</p> <p>The Department of Occupational Health should be consulted regarding specific occupational safety and health requirements. However, in general all employers in California are subject to the California Occupational Safety and Health Act. Because TWW is by definition a hazardous waste, additional worker safety training would apply, but section 67386.12 does not add or modify worker safety requirements.</p> <p>If an employer chooses to comply with, and take advantage of, the alternative management standards of these regulations, Section 67386.12 does add requirements that employers train employees in the identification and segregation of TWW, the requirements of the alternative standards, and disposal methods for TWW. Budget and staffing requirements would, therefore, be related to the number of employees exposed to TWW and the situation in which the exposure occurs.</p>