

# CHAPTER 13

## ARSENIC-TREATED WOOD

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### **SEC. 1300. FINDINGS AND PURPOSE.**

The Board of Supervisors finds and declares that:

(a) Preservative-treated wood containing arsenic poses potential health risks to children in San Francisco who are potentially exposed to arsenic, a known human carcinogen, by playing on City wooden playground and park equipment. Studies conducted in California, Connecticut and Florida suggest that arsenic leaches from preservative-treated wood containing arsenic and can end up on children's hands and in their mouths.

(b) California Health and Safety Code Section 115775 requires that play structures constructed with preservative-treated wood containing arsenic be adequately sealed every two years.

(c) Preservative-treated wood containing arsenic poses potential human health and environmental risks through the release of arsenic during manufacture, installation, and disposal of wood.

(d) There are a variety of alternatives to preservative-treated wood containing arsenic compounds readily available throughout California.

(e) Preservative-treated wood is also used for saltwater immersion environments for structures such as pilings and piers, but until such time as a viable alternative is available, best management practices should be followed for these uses.

(f) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with its policies.

(g) This Chapter applies the Precautionary Principle to the selection and maintenance of pressure treated wood used to build City structures such as buildings, decks, fences, and play equipment by banning the use of arsenic-containing wood preservatives and requiring protective sealing of existing structures. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.1; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

## **SEC. 1301. DEFINITIONS.**

Whenever used in this Chapter, the following terms shall have the meanings set forth below.

(a) "Preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative.

(b) "City Department" shall mean any department of the City and County of San Francisco. City Department does not include any other local agency or any federal or State agency, including but not limited to the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.

(c) "Commission" shall mean the Commission on the Environment provided for by San Francisco Charter Section 4.118.

(d) "Contract" means a binding written agreement, including, but not limited to a contract, lease, permit, license or easement between a person, firm, corporation or other entity, including a governmental entity, and a City Department for the purchase of preservative-treated wood.

(e) "Contractor" shall mean an individual, trust, firm, joint stock company, corporation, partnership, and governmental entities, to the extent allowable by law, that enters into a Contract with a City Department.

(f) "Department" shall mean the San Francisco Department of the Environment provided for by San Francisco Charter Section 4.118.

(g) "Saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.2; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

## **SEC. 1302. ENVIRONMENTALLY PREFERABLE ALTERNATIVES.**

No later than March 30, 2003, the Department shall identify, prepare and adopt, at a public meeting, a list of environmentally preferable alternatives to preservative-treated wood containing arsenic. The list shall include information on specific wood preservatives, appropriate applications for each preservative, costs, product availability and another pertinent information. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.3; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

### **SEC. 1303. PURCHASE OF ALTERNATIVES.**

Except as provided in this Section, after June 30, 2003, each City Department entering into a new Contract or extending the term of an existing Contract for the purchase of preservative-treated wood products, and each Contractor purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department pursuant to Section 1302 of this Chapter. A City Department or Contractor that purchases preservative-treated wood containing arsenic for saltwater immersion shall be exempt from this Section. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.4; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

### **SEC. 1304. EXEMPTIONS.**

(a) On or after June 30, 2003, a City Department or Contractor may apply to the Department for an exemption from the ban on the purchase of preservative-treated wood containing arsenic imposed by Section 1303. The application for an exemption shall be filed on a form specified by the Department. The Department may grant the exemption upon a finding that the City Department or Contractor has:

(1) Made a good faith effort to purchase an alternative on the list adopted by the Department pursuant to Section 1302 of this Chapter; or has demonstrated that the alternative is not economically viable for the proposed use or is not practical in limited circumstances; and

(2) Developed a best management practice, including a plan for minimizing leaching or contact with human skin, if the exemption is granted. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.5; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

### **SEC. 1305. REPLACING EXISTING STRUCTURES; MANAGEMENT PROGRAM.**

(a) No later than June 30, 2003, each City Department who owns or maintains playground equipment that is constructed with preservative-treated wood containing arsenic, where contact with human skin is likely, shall (i) take an inventory of such structures and develop a timeline and cost analysis for replacing these structures with non-wood alternatives or with alternatives on the list adopted by the Department pursuant to Section 1302 of this Chapter; (ii) develop a written management program for preservative-treated wood containing arsenic, including best management practices, schedules and protocols for testing for leaching of arsenic and chromium, sealing and posting of warning language where contact with human skin is likely and update this program on a regular basis; and (iii) provide the Department with copies of these documents.

(b) No later than June 30, 2003, each City Department who owns or maintains park structures other than playground equipment, including benches and picnic tables, that are constructed with preservative-treated wood containing arsenic, where contact with human skin is likely, shall develop a plan to inventory and manage, including sealing and replacement, such structures and submit that plan to the Department.

(c) No later than June 30, 2003, each City Department that owns or maintains facilities not addressed in Sections (a) or (b) above that are constructed with preservative-treated wood containing arsenic and where frequent contact with human skin is likely, shall take an inventory of its facilities and submit a plan to seal or replace such facilities. Each City Department subject to this Section shall provide the Department with a copy of the inventory and plan. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.6; added by Ord. 15-03, File No. 021791, App. 2/7/2003) SEC. 1306. REPORT TO COMMISSION. No later than September 30, 2003, the Department shall report to the Commission on the progress of the programs and mandates directed by this Chapter. The report, at a minimum, shall include the following information:

(a) A list of the alternatives to preservative-treated wood containing arsenic pursuant to Section 1302.

(b) A list of City Departments and Contractors requesting an exemption to this Chapter.

(c) A summary of the reports submitted to the Department pursuant to Section 1305.

(d) Any other information deemed relevant to eliminating the risk of

exposure to preservative-treated wood containing arsenic. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.7; added by Ord. 15-03, File No. 021791, App. 2/7/2003)SEC. 1307. REPORT TO BOARD OF SUPERVISORS. No later than June 30, 2005, the Commission shall report to the Board of Supervisors on the progress of the programs and mandates directed by this Chapter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.8; added by Ord. 15-03, File No. 021791, App. 2/7/2003)SEC. 1308. DISPOSAL. All City departments shall dispose of preservative-treated wood containing arsenic in an approved landfill and shall not make preservative-treated wood containing arsenic available for re-use, incineration or for use as wood chips or mulch. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.9; added by Ord. 15-03, File No. 021791, App. 2/7/2003)SEC. 1309. CITYWIDE BAN. No later than June 30, 2003, the Department of Building Inspection and the Department shall investigate and report to the Commission on the possibility of imposing a citywide ban on the sale, purchase and installation of preservative-treated wood containing arsenic. At a minimum, the report shall contain an assessment of the legality, feasibility and cost implications of imposing a citywide ban. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.10; added by Ord. 15-03, File No. 021791, App. 2/7/2003)SEC. 1310. GUIDELINES. The Department may issue guidelines, after a public meeting, to assist City Departments in the implementation of this Chapter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.11; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

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