

Department of Toxic Substances Control
Official Policy

**IMPLEMENTING
QUARANTINE AUTHORITY**

DTSC OP-0008

Subject/Title of Policy

Official Policy Number

EO-02-002-PP and OPP 88-9

07/15/2016

Supersedes Number(s)

Date Issued/Effective Date

All Staff

Hazardous Waste Management Program

Target Audience

Issuing Unit

Barbara A. Lee

Director

Name

Title of Approving Authority

Original signed by Barbara A. Lee

Signature

Date Signed

Statutory Reference(s): Health and Safety Code section 25001, et. seq., and Health and Safety Code 25187.6 and their implementing regulations.

This Policy and any internal procedures adopted for its implementation are intended solely as guidance. This policy does not constitute a rulemaking by the Department and may not be relied upon to create a specific right or benefit, substantive or procedural, enforceable at law or in equity, by any person. The Department may take action at variance with this policy or any internal implementing procedures.

This policy expires five years from the date of signature.

CONTACT:

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Table of Contents

I. PURPOSE	3
II. BACKGROUND	3
III. STATUTORY AUTHORITY	3
IV. POLICY	3
V. ROLES AND RESPONSIBILITIES	4
A. Inspector	4
B. Inspector's Supervisor	5
C. Hearing Officer	6
VI. FIELD PROCEDURES	6
A. General	6
B. Quarantine Labels	6
C. Quarantine Log	7
D. Notice of Quarantine	7
VII. HEARING PROCEDURES	9
VIII. CRITERIA FOR REMOVAL OF QUARANTINE ORDERS	10
IX. REISSUING QUARANTINE ORDERS	10

Attachments

A. Health and Safety Code Section 25187.6	11
B. Sample Quarantine Label	12
C. Notice of Quarantine	13
D. Log of Materials Quarantined	14
E. Template Letter on Validity of Quarantine Order	15

I. PURPOSE

This document sets forth the Department of Toxic Substances Control's (DTSC) policy for implementing quarantine authority for hazardous waste pursuant to [Health and Safety Code section 25187.6](#) (Attachment A).

II. BACKGROUND

This policy supersedes EO-02-002-PP (01/30/09) and OPP 88-9.

III. STATUTORY AUTHORITY

The [Health and Safety Code section 25187.6](#) (Attachment A) authorizes agents of DTSC to quarantine any hazardous waste or material reasonably believed to be a hazardous waste, if the agent has probable cause to believe the waste or material is being stored, transported, disposed of, or handled in violation of hazardous waste laws in such a manner as to threaten public health and safety or the environment.

IV. POLICY

DTSC's quarantine authority shall be implemented when it is to the benefit of public health and the environment and when the situation meets the following statutory requirements specified in the Health and Safety Code section 25187.6:

1. The authorized agent reasonably believes that the material in question is a hazardous waste;
2. The authorized agent reasonably believes that such waste is being stored, transported, disposed, or otherwise handled in violation of chapter 6.5, division 20, Health and Safety Code; and
3. The alleged violation(s) may threaten public health and safety or the environment.

All three of these conditions must be met for DTSC's quarantine authority to be exercised in accordance with the procedures set forth in this document. DTSC's authorized agent shall confirm with his/her Supervisor that all of these requisite elements exist before issuing a Quarantine Order.

Affixing the completed Quarantine Label [DTSC 1102] ([Attachment B](#)) to a container or vehicle constitutes issuance of a Quarantine Order. In most instances, the authorized agent will be an Enforcement and Emergency Response Division (EERD) Inspector; however, any authorized DTSC staff member (hereafter referred to as "Inspector") may issue a Quarantine Order.

V. ROLES AND RESPONSIBILITIES

A. Inspector

1. Determine the identity of the Respondent(s). The Respondent is the person or entity who owns, leases or is an authorized representative for the handling of hazardous waste, which is inclusive of, but not limited to that in a court action or settlement agreement. See the authority and violations of Health and Safety Code section 25187.6 for a more inclusive definition ([Attachment A](#)). Questions about who the Respondent(s) is/are should be directed to the Inspector's Supervisor and/or Office of Legal Counsel (OLC).
2. Ensure the situation meets the statutory requirements specified in Health and Safety Code section 25187.6 for issuing a Quarantine Order (see Section IV for more information) and confirm with his/her Supervisor that all necessary (or prerequisite) conditions exist before issuing a Quarantine Order.
3. Complete the Quarantine Label and place it on the container(s) and/or vehicle(s) that hold the hazardous waste.
4. Document all circumstances and activities relevant to issuing the Quarantine Order, such as:
 - a. Facility inspection report
 - b. Notice of Quarantine (DTSC 1103) ([Attachment C](#))
 - c. Log of Materials Quarantined ([Attachment D](#))
 - d. Photographs of the quarantined material, sampling data, and any other relevant information

Documentation is required for filing and may be presented at a hearing.

5. Issue a completed Notice of Quarantine to each Respondent or authorized representative.
6. Immediately notify Supervisor of the issuance of the Quarantine Order and whether the facility Respondent or the Respondent's representative requests a Quarantine Order hearing. Hearing requests may be made verbally or in writing. If the Supervisor is not available, another Supervisor or manager should be notified.
 - a. Document the date and time of the hearing request and the name, work telephone number, address, and position/title of the person who made the request. The hearing must be held within 24 hours of the request.

7. Ensure the violation is corrected and the threat is mitigated within 30 days of issuing the Quarantine Order. Proper resolution will generally consist of abating the potential threat to public health and safety or the environment.
 - a. Such actions may include having the Respondent(s) repackage leaking containers, repair leaking valves or piping, properly segregate incompatible materials, properly identify previously unidentified materials or ensure that wastes will be properly transported to an approved facility.
 - b. Proper resolution of the situation must be reached with the concurrence of the Supervisor, other units within DTSC or other regulatory agencies, as appropriate.
8. Ensure Quarantine Order data is entered into EnviroStor upon returning to the office or no later than two days after being issued.
9. Assist Supervisor with hearing preparation and attend the hearing with all evidence and documents in hand.

B. Inspector's Supervisor

1. Confirm that all necessary (or prerequisite) conditions exist before issuing a Quarantine Order.
2. Ensure a quarantine hearing is held within 24 hours of receiving the Respondent's request for a hearing.
3. Schedule the hearing.
 - a. Designate a hearing officer to conduct the hearing. The hearing officer should be a neutral party and should not have participated in discussions or decisions leading up to the issuance of the Quarantine Order.
 - b. Arrange for adequate facilities and all equipment needed to conduct the hearing.
 - c. Notify the Respondent(s) by telephone, courier or in person, of the time and location of the hearing.
4. Make a request for legal assistance from OLC, if circumstances warrant.

C. Hearing Officer

1. Conduct a hearing on the validity of a Quarantine Order pursuant to Health and Safety Code section 25187.6 (b)(3) ([Attachment A](#)).
 - a. The hearing officer may be a DTSC Senior Scientist, Supervisor, Branch Chief, Supervising Criminal Investigator, Division Chief, or Deputy Director designated by DTSC Director. The hearing officer should not be the Inspector's Supervisor or Branch Chief. The hearing officer should not have participated in discussions or decisions leading up to the issuance of the Quarantine Order.
2. Conduct the hearing according to the hearing procedures set forth in this document (see Section VII for more information).
3. Document the hearing proceedings in writing.
4. Prepare the written determination confirming the validity of the Quarantine Order ([Attachment E](#)) and mail a copy to the Respondent(s) via certified mail within five working days of the hearing.

VI. FIELD PROCEDURES

A. General

A Quarantine Label shall be properly completed and attached to each container or vehicle transporting hazardous waste that is quarantined. If the peel and stick label does not adhere properly, it is acceptable to place the label on a tag and affix it to the container or vehicle that will be quarantined. Affixing the completed Quarantine Label to a container or vehicle constitutes issuance of the Quarantine Order. It is not imperative to use the preprinted stick-on labels. Paper copies may be used or any document which includes all the information as the sample label ([Attachment B](#)).

B. Quarantine Labels

The Quarantine Label shall be completed as follows:

Date: Enter the date the Quarantine Order is issued.

Number: Assign a unique number to a specific container or vehicle (each label). A numbering system similar to that used for samples taken will suffice. Samples taken from a container or vehicle should be assigned the same number as the Quarantine Order, with additional and sequential digits for multiple samples.

Material: Briefly describe the nature of the material. If a more detailed description is needed, include that detail in the Log of Materials Quarantined ([Attachment D](#)).

Amount: Enter the estimated amount of material in the container or vehicle. This information may come from available documents (e.g., manifests, bills of lading, tank logs) or be an estimate by the Inspector or Respondent(s). Include units of measure (gallons, cubic yards, drums, etc.), as appropriate.

Location: Enter the location of the quarantined material. For materials in transit, the Inspector may select the location where the waste will be stored or held and enter that location on the Quarantine Order. The Inspector should ensure the material reaches the specified location by calling the specified facility or following the vehicle to the specified location.

Authorized agent: Enter the Inspector's name and work telephone number (direct line or the section office's general number).

Quarantined materials should be separated from other non-quarantined materials, if feasible. The Inspector should attempt to seal containers with evidence tape or utilize other measures that identify tampering (e.g. evidence tape may be placed across the edges of lids and/or bungs of drums).

C. Quarantine Log

After the Quarantine Labels have been attached to all containers and/or vehicles, the Inspector shall complete the Log of Materials Quarantined or otherwise document pertinent information. This shall include listing the number on the Quarantine Label for each container and/or vehicle and documenting a description of each. The license number or other prominent markings or numbers, and name and address of the registered owner should be obtained. For vehicles, the information and description should be detailed enough to easily identify each container or vehicle (use additional pages as needed).

Photograph all quarantined materials (showing the labels) and record the photos in a photo log. The Inspector should also consider sampling the quarantined material to be certain of its composition.

D. Notice of Quarantine

The Inspector shall complete a Notice of Quarantine form ([Attachment C](#)) and issue it to the Respondent(s).

The Inspector should obtain the name, position/title, and any other identifying information from the person to whom the Notice is delivered. Information about a driver, such as name, address, and driver's license number should be obtained.

The Notice must be completed with the required information, as specified below:

Respondent(s): The Respondent is the owner of the waste or the owner or lessee of the vehicle in which the waste is being transported. Enter the name, address, and identification number (if applicable) of each Respondent.

Items 1 and 2: No additional information needed.

Item 3: Insert the location where the waste is being handled. Explain why the waste is a hazardous waste and how the waste is being handled in violation of chapter 6.5 of division 20 of the Health and Safety Code.

Item 4: Explain the nature of the threat to public health and safety or the environment.

Item 5: Insert the name, address, and work telephone number of the Inspector.

Item 6: This section is optional. The Inspector may direct that the waste be transported to another location (see below) if the waste is in transit at the time of quarantine or there is reason to believe that the Quarantine Order will be violated or the waste in its present location poses a threat to public health and safety or the environment. Insert the location where the waste will be transported, including any special storage and/or safety instructions. The Inspector will determine where the waste will be stored by considering the least risk to public health and safety or the environment. The hazardous waste should be stored or held at one of the following locations:

1. A facility owned or operated by the generator of the waste, except when the generator is located outside the state;
2. The transporter's yard, facility, or terminal, except when located outside the state;
3. The treatment, storage, or disposal facility to which the hazardous waste is being transported, except when located outside the state; or
4. Any other appropriate site designated by the Inspector.

Signatures: The inspector must sign and date the form and obtain the signature of the person to whom the Notice is issued. This should be the owner of the waste, the owner or lessee of the vehicle in which the waste is being transported, or a representative of one of the above. If the person to whom the Notice is issued refuses to sign the Notice, the Inspector must document the refusal in notes and/or in the Notice.

If the Notice is issued to a representative of a company or facility, that representative should be the highest ranking facility representative available or the driver of the vehicle. The signature of the Respondent only acknowledges receipt of the Notice and is not an admission of guilt or liability.

After the Notice has been completed and signed by the Respondent or his/her representative, copies should be dispensed as follows:

- First copy containing the original signatures is attached to the DTSC inspection or investigation report.
- Second copy is given to the inspector's Supervisor.
- Third copy is left with the Respondent or his/her representative.

The inspector shall accompany the waste to the location where it will be stored or held or take other actions to ensure the waste arrives at the selected location.

DTSC may move the waste if a Supervisor and/or Branch Chief concurs that the situation constitutes an emergency and emergency funds will be utilized. A Supervisor or Branch Chief must authorize contacting EERD's Emergency Response in the Sacramento Regional Office at (916) 255-6504.

DTSC may use funds other than emergency funds to move the waste if it is determined that it poses a threat to public health and safety or the environment.

VII. HEARING PROCEDURES

The hearing is informal and conducted in the following manner:

1. The hearing officer opens the hearing by explaining the purpose of the hearing. The purpose of the hearing is to determine the validity of the Quarantine Order; other matters will not be discussed.
2. Each party must identify himself/herself for the hearing record. Anyone interested in the Quarantine Order may attend. The Inspector and his/her Supervisor should always attend.
3. The Inspector presents the rationale for the Quarantine Order and provides all available supporting information.
4. The Respondent may provide whatever information he/she wishes and may be represented by an attorney. If Respondent is represented by an attorney, then OLC must be present.

5. At any time during the proceeding, the hearing officer may question any participant in the hearing.
6. After considering the information presented, the hearing officer shall determine the validity of the Quarantine Order. This determination must be made on the day of the hearing. The hearing is adjourned once the determination is made.
7. The hearing officer will prepare a written summary of the Quarantine Order hearing and validate or revoke the Quarantine Order; mail a copy to the Respondent by certified mail within five working days of the hearing; and provide a courtesy copy to the Inspector.
8. The Inspector will collect the complete record of the hearing, including the statement of determination, digital recording (if any), copy all documents presented and all other information related to the hearing. The complete record shall be placed in the Respondent's enforcement case file.

If the Quarantine Order is determined to be valid, the order shall stand and DTSC will pursue appropriate resolution. If the order is determined to be invalid, the hearing officer's letter will revoke it immediately.

VIII. CRITERIA FOR REMOVAL OF QUARANTINE ORDERS

Quarantine Orders may be removed in one of four ways:

1. The order is automatically removed 30 days after issuance.
2. The order may be revoked by the hearing officer. This should be documented as noted in Section VII of this document.
3. The order may be removed by any Inspector upon proper resolution of the original situation, or if the situation does not meet, or no longer meets, the statutory requirements for issuing the order.
 - a. The Inspector must document, in a memorandum to the inspection file, the reasons and/or actions leading to removal of the order. If the DTSC staff member removing the order is not the Inspector who issued the order, Supervisor approval is required. The Inspector must be notified of the order removal as soon as possible.
4. The order may be removed by a court. Questions regarding this type of order removal should be directed to OLC.

IX. REISSUING QUARANTINE ORDERS

The Quarantine Order may be reissued if the concerns related to the waste have not been resolved appropriately within 30 days.

Attachment A
Health & Safety Code section 25187.6

25187.6. (a) If an authorized agent of the department has probable cause to believe that any hazardous waste, or any material which the authorized agent reasonably believes to be a hazardous waste, is stored, transported, disposed of, or handled in violation of this chapter or in a manner that will constitute a violation of this chapter, and that the violation may threaten public health and safety, or the environment, the agent may issue an order of quarantine by affixing a tag or other appropriate marking to the container containing, or to the vehicle transporting, the hazardous waste.

(b) Upon issuing an order of quarantine pursuant to subdivision (a), the authorized agent shall notify the person who owns the hazardous waste, or the owner or lessee of the vehicle in which the wastes are transported, of all of the following:

(1) The hazardous waste has been subject to a quarantine order because the hazardous waste is, or is suspected of being, stored, transported, disposed of, or handled in violation of this chapter.

(2) No person shall remove, transfer, or dispose of the hazardous waste until permission for removal, transfer, or disposal is given by an authorized agent of the department or by a court.

(3) The person so notified may request, and shall be granted, an immediate hearing before a person designated by the director to review the validity of the authorized agent's order. For purposes of this section, an immediate hearing shall be held within 24 hours after a hearing is requested by the person subject to the order.

(c) Any order of quarantine issued pursuant to subdivision (a) shall take effect upon issuance and shall remain effective for 30 days thereafter, until an authorized agent removes the quarantine order pursuant to subdivision (d), or until the quarantine order is revoked pursuant to a hearing conducted in accordance with paragraph (3) of subdivision (b), whichever event occurs first.

(d) If an authorized agent of the department determines that a hazardous waste subject to a quarantine order is not being stored, handled, transported, or disposed of in violation of this chapter, or does not threaten public health and safety or the environment, the authorized agent shall revoke the order of quarantine.

(e) If an authorized agent of the department has probable cause to believe that a hazardous waste subject to a quarantine order will, or is likely to, be removed, transferred or disposed of in violation of this inspection, the authorized agent may remove the hazardous waste to a place of safekeeping.

(f) A hazardous waste in transit for which a quarantine order has been issued pursuant to subdivision

(a) shall be stored or held at one of the following locations, which the authorized agent determines will represent the least risk to the public health and safety or the environment:

(1) The facility owned or operated by the producer of the waste, except when the producer is located outside the State.

(2) The transporter's yard, facility, or terminal.

(3) The treatment, storage, or disposal facility to which the hazardous waste is to be transported.

(4) Any other site designated by the authorized agent.

(g) All fees for storage and any other expenses incurred in carrying out subdivision (e) or (f) shall be a charge against the person who owns the hazardous waste or the owner or lessee of the vehicle in which the wastes are transported.

(h) For purposes of this section, "authorized agent of the department" includes any representative of a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

**Attachment B
Sample Quarantine Label DTSC 1102**

State of California – California Environmental Protection Agency

Department of Toxic Substances Control

QUARANTINED

*Under Authority of Division 20, Chapter 6.5, Section 25187.6 of the
CALIFORNIA HEALTH AND SAFETY CODE*

WARNING: This material may not be removed or disposed of until permission is given by an authorized agent of the Department of Toxic Substances Control or by a court.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

(Note: Use Regional Office Address When Applicable)

Date _____ No. _____
Material _____ Amount _____
Located at _____
Authorized Agent _____

If this item is found at a location other than the address listed above, please notify the Department of Toxic Substances Control at 1-800-698-6942.

DTSC 1102 (06/27/2016)

Attachment C
Notice of Quarantine DTSC 1103

State of California-California Environmental Protection Agency

Department of Toxic Substances Control

RESPONDENT: _____)
_____)
_____)
_____)
_____)

NOTICE OF QUARANTINE

Health and Safety Code
Section 25187.6

1. NO PERSON SHALL REMOVE, TRANSFER, OR DISPOSE OF THE HAZARDOUS WASTES SUBJECT TO THE AFFIXED ORDER TAGS (YELLOW AND RED QUARANTINE LABELS) OR AS OTHERWISE MARKED UNTIL PERMISSION FOR REMOVAL, TRANSFER OR DISPOSAL IS GIVEN BY AN AUTHORIZED AGENT OF THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL (hereinafter the Department) OR BY A COURT OF COMPETENT JURISDICTION.
2. This quarantine takes effect upon issuance and remains effective for 30 days, until an authorized agent of the Department removes the quarantine, or until the quarantine is revoked pursuant to a hearing as further explained below.
3. The Department finds that hazardous waste or material believed to be hazardous waste located at _____ is, or is suspected of being stored, transported, disposed of or handled in violation of chapter 6.5 of division 20 of the Health and Safety Code or in a manner that will constitute a violation of this chapter in that: _____

4. There is a threat to the environment, because: _____

5. The owner of the quarantined waste or the owner or lessee of the vehicle in which the waste is located may request an immediate hearing, which will be held within 24 hours, before a person designated by the department to review the validity of the quarantine. Contact _____

6. (Optional) The hazardous waste that is the subject of the Quarantine shall immediately be transported to and held at the following location which the authorized agent has determined will represent the least risk to public health and safety or the environment: _____

All fees for removal, storage and any other expenses incurred in carrying out activities pursuant to this quarantine shall be paid by the person who owns the waste or the owner or lessee of the vehicle in which the waste is located.

_____ Signature of Issuing Agent	_____ Printed name	_____ Date
_____ I hereby acknowledge receipt of this Notice of Quarantine	_____ Printed name	_____ Date

DTSC 1103 (06/27/2016)



Department of Toxic Substances Control



Matthew Rodriguez
Secretary for
Environmental Protection

Barbara Lee, Director
1001 - "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Edmund G. Brown Jr.
Governor

Attachment D Log of Materials Quarantined

Date _____ Authorized Agent _____

Site _____ Owner of Waste _____

Quarantine Label #	Description of Material Quarantined



Department of Toxic Substances Control



Matthew Rodriguez
Secretary for
Environmental Protection

Barbara Lee, Director
1001 - "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Edmund G. Brown Jr.
Governor

Attachment E **Template Letter on Validity of Quarantine Order**

(Note: Use Regional Office Address When Applicable)

DATE: [Current Date]

[Respondent Name]
[Company Name]
[Address]
[City, State Zip code]

CERTIFIED MAIL NO: [Number]

Dear Mr./Ms. [Respondent Name]:

The purpose of this letter is to inform you of my decision as to the validity of a Quarantine Order. On [Date] at [Time], I served as the hearing officer at a hearing that you requested at approximately [Time] on [Date]. You requested this hearing to determine the validity of a Quarantine Order that was issued on [Date] to [Respondent Name, Company Name and address]. The items quarantined were in a truck rented from [Company Name and license number] and its contents of [number of items] of [name of waste material] and a [vehicle type], [license number]. The quarantine notice stated that the transporter lacked registration as a hazardous waste hauler.

I uphold the validity of the quarantine because [Company Name] violated California Health and Safety Code section 25163 (a) (1) in that [Respondent Name and Company Name] transported hazardous waste in a vehicle without holding a valid registration issued by the Department of Toxic Substances Control to transport hazardous waste. This is a threat to the public health and safety or the environment because there would be no assurance that the waste could be safely shipped to an authorized facility.

Sincerely,

[Signature and Title of Authorized DTSC Agent]