

Fact Sheet
February 2004

Hazardous Wastes of Concern



HAZARDOUS WASTE MANAGEMENT

DTSC is one of six Boards and Departments within the California Environmental Protection Agency. DTSC's mission is to restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality, by regulating hazardous waste, conducting and overseeing cleanups, and developing and promoting pollution prevention.

State of California



California
Environmental
Protection Agency



In response to security concerns following the September 11, 2001 terrorist attack, legislation was passed [Senate Bill No. 489 (2001-2002 Reg. Session Romero)] that amended and enacted laws to increase the security of hazardous wastes. SB 489 amended Health and Safety Code §25112.5 and added Article 6.6 beginning with § 25169.5. The new law strengthens the security of hazardous waste that can be intentionally and effectively used to harm the public and or the environment. These wastes are called Hazardous Wastes of Concern (HWC).

The Department of Toxic Substances Control (DTSC) adopted emergency regulations implementing SB 489 that apply to any person handling HWC. The emergency regulations became effective on July 10, 2003.

- Any person handling HWC who discovers that a reportable quantity of a HWC is missing during transportation or storage must notify DTSC by phone within 24 hours and submit a written report within five days.
- Transporters and treatment, storage and disposal facilities (TSDFs) that handle HWC must submit a Disclosure Statement and fingerprints for a criminal background check unless the corporation is exempt.
- Transporters and TSDFs that handle HWC must submit a Disclosure Statement with a new or renewal application by and after January 1, 2004.

This fact sheet provides general information about laws affecting generators, TSDFs and transporters of HWC. Unless otherwise noted, all citations apply to Health and Safety Code §§ 25112.5 and 25169.5. Consult the statutes and regulations before making any decision that may affect regulatory compliance.

The text of the regulations and related information is available on DTSC's Web site at www.dtsc.ca.gov/LawsRegulationsPolicies/HWC/HWC_final_regs.html and in www.leginfo.ca.gov/calaw.html under Health and Safety Code, Division 20 Chapter 6.5, Article 6.6 and www.calregs.com/ under Title 22, Division 4.5.

What Wastes are Hazardous Wastes of Concern?

A HWC is a hazardous waste that is identified with one of the following hazard divisions under the Code of Federal Regulations, Title 49 (49 C.F.R.):

- An explosive material, hazard division 1.1, 1.2, or 1.3;
- A poisonous material, hazard division 6.1, packing group I or II; or
- A poisonous gas, hazard division 2.3 (Cal. Code Regs., Title 22, 66261.111(a)).

DOT Laws and regulations require that any person packaging and shipping hazardous materials, including hazardous wastes, must have completed training that enables them to properly identify, document, package and handle the hazardous materials they are offering for shipment. To determine if a hazardous waste is a HWC:

- The generator or generator's trained employees must compare the DOT hazard classes of their hazardous wastes with those listed in the HWC regulations, and identify HWC for enhanced tracking. Further, the generator must determine if the waste exhibits HWC characteristics by testing the waste according to the approved methods or applying knowledge of the hazards characteristic of the waste in light of the processes that the materials have undergone.
- Transporters and TSDFs must check the information on the manifest in Box 11 (U.S. DOT Description), the additional information in Box J (Additional Descriptions for Materials Listed Above), and the label and markings on the container. If in doubt, the transporter and TSDFs should verify the information with the generator of the waste.

Shipping names, hazard divisions, and packing groups are in 49 C.F.R. The Hazardous Materials Table is in 49 C.F.R Section 172.101. DTSC has prepared an excerpt with the names of the materials listed in the hazard divisions. The excerpt is available as a complete list on DTSC's Web site at www.dtsc.ca.gov/LawsRegulationsPolicies/HWC/hwm_regs_sb489_hwc-list.pdf or call 800-728-6942.

When to Make a Report

Missing HWC is defined as lost, stolen, or disappeared (Cal.Code Regs., Title 22, § 66261.111(b)). Any person handling HWC is required to report missing HWC when the missing waste is of a reportable quantity or a reportable difference in the type of wastes received by the transporter or TSDF, as compared to what is described on the manifest.

- **Reportable quantities**
 - a) bulk waste—a change of more than three percent in weight or volume.

b) containerized waste—a change in piece count, such as a difference of one drum in a truckload.

- **Reportable differences in type** are obvious differences that can be discovered by sight, inspection, or waste analysis. Examples of differences in type include waste caustic soda substituted for sodium cyanide, or waste containing hazardous constituents not reported on the manifest that would change the hazard class, the shipping name or waste code. Other examples: mineral spirits substituted for waste carbon tetrachloride; or soil substituted for any reactive or poisonous solid, etc.

To Report Missing HWC

Call DTSC's Complaint Hotline at 800-69-TOXIC (800-698-6942) within 24 hours of discovering that HWC is missing and provide the following:

- 1) Generator name and identification number
- 2) Transporter name, identification number, and, if available, transporter registration numbers
- 3) Destination facility name and identification number
- 4) Manifest number
- 5) Waste information (lines 11-14 of the manifest), including shipping name, hazard class or division, identification number, packing group, number of containers, container type (as listed in Table I of the Appendix to Chapter 12, Article 7), Quantity or volume of waste, weight or volume units, and waste codes
- 6) Location or transportation routes where the HWC was first noticed missing (for example: highway or road, rail line, transfer station, truck stop, etc.). Hazardous waste facilities reporting missing HWC during storage must identify the areas at the facility where the waste was handled.

Submit a written report with the above information, including resolution of the discrepancy or missing waste, within five days, to the appropriate address below.

For missing HWC in Los Angeles, Ventura, Santa Barbara, San Bernardino, Orange, Riverside, San Diego and Imperial Counties:

Complaint Coordinator
Department of Toxic Substances Control
Statewide Compliance Division
Glendale Branch
1011 North Grandview Avenue
Glendale, California 91201-2205

For counties not included in the Southern California list, or any out-of-state counties:

Complaint Coordinator
Department of Toxic Substances Control
Statewide Compliance Division
Northern California Branch
8800 Cal Center Drive
Sacramento, California 95826-3200

NOTE: In an emergency, contact law enforcement by calling 911, then contact DTSC.

Disclosure Statements

Anyone who transports HWC or operates a TSDf that handles HWC must provide DTSC with a Disclosure Statement when applying for a new permit, permit renewal, or modification to an authorization or permit issued by DTSC. A Disclosure Statement form is available on the Internet at www.dtsc.ca.gov/database/Publications/forms_index.cfm.

Sole proprietors, partners and officers, or directors as defined in Health and Safety Code, section 25112.5, are required to submit fingerprints with the Disclosure Statement. If there is a change in personnel in the above listed positions, then fingerprinting images and identification information must be submitted for the new individuals in those positions as well.

Corporate Exemptions

Some companies are exempt from submitting Disclosure Statements or from the fingerprint and background requirements:

- Publicly-held corporations that have operated as hazardous waste facilities or interim status facilities continuously since January 1, 1984, are exempt from the Disclosure Statement requirement under specified conditions, but they must submit SEC Annual Reports for the previous three years.

- Publicly-held corporations listed by the Securities and Exchange Commission (SEC), or wholly-owned subsidiaries of SEC-listed companies, are exempt from the fingerprint requirement.

Corporations eligible for the exemptions must report missing HWC and meet all of the requirements of Health & Safety Code §§ 25112.5(b) and (c). A transporter or TSDf that may qualify for a corporate exemption, should provide a letter to DTSC's Permit Program Development Section in Sacramento explaining the exemption eligibility.

To Submit a Disclosure Statement or for More Information

For more information about transporting HWC, call DTSC's Transportation Section at (916) 255-4368.

For information related to Disclosure Statements and TSDfs handling HWC contact:

Department of Toxic Substances Control
Hazardous Waste Management Program
Permit Program Development Section
Attention: Disclosure Statement Coordinator
P.O. Box 806, Sacramento, California 95812-0806
(916) 324-1806

For all other information related to HWC, please contact the DTSC office nearest you, or call the Regional Public and Business Liaisons at (800) 72TOXIC (800-728-6942).

DTSC Headquarters (916) 323-2678

Sacramento Office (916) 255-3617

Berkeley Office (510) 540-3739

Clovis Office (559) 297-3901

Glendale Office (818) 551-2830

Cypress Office (714) 484-5400

San Diego Office (619) 278-3734

or visit www.dtsc.ca.gov