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Fact Sheet, October 2008

Managing Hazardous Waste at Foreclosed Properties

Introduction:

Foreclosures of residential properties are occurring daily across California. As a result, former property owners and their tenants are leaving behind common household chemicals and materials that may pose a hazard or risk to humans and the environment. Entities that have acquired foreclosed residential properties (e.g., lenders, real estate companies, government agencies, and other businesses) are employing businesses such as restoration companies or private individuals to prepare the properties for resale. This often involves removing materials left behind in the residential properties, some of which are hazardous waste.

The Department of Toxic Substances Control (DTSC) prepared this fact sheet to provide general guidance about managing materials and hazardous waste, and to offer options for handling them. Viewing this fact sheet on the internet provides access to additional information through (underlined) interactive links in the document. This fact sheet does not apply to individual homeowners who may qualify for the household hazardous waste exemptions.

Improper handling of hazardous waste presents a real threat to the environment. There are federal and state laws and regulations that govern the handling of hazardous waste. You should consult the actual statutes and regulations to be sure that you are in compliance.

The basics of hazardous waste

It is the responsibility of the new owner or the restoration company (as the generator) to determine whether or not household chemicals and materials (such as universal waste), left by former residents, are materials that can be used for their intended purpose, or if those materials are a waste. If possible, common household chemicals (such as cleaners, and gardening and automotive products) and materials can and should be used by others instead of being discarded.

If the generator determines that the materials cannot be used for their intended purpose then those materials become a waste. If the wastes are hazardous waste then the new owner, or the restoration company, becomes the hazardous waste generator since that is legally defined as the person whose *act or process first causes a hazardous waste to become subject to regulation* (Cal. Code Regs., title 22, § 66260.10).

The **generator**, seeking to dispose of the materials, assumes liability for determining the disposition of all materials and wastes. According to the law, generators must evaluate wastes to determine if they are hazardous waste (Cal. Code Regs., title 22, § 66260.200(c)). If these wastes have one or more of the hazardous waste characteristics (ignitable, corrosive, toxic, or reactive), or are specifically listed as a hazardous waste (Cal. Code Regs., title 22, § 66261.3), they are hazardous wastes. Examples of common hazardous wastes are listed in the table at the end of this fact sheet. Consult with DTSC's on-line guidance and tutorial on "[What Is A Hazardous Waste](#)" for more information about hazardous waste classification.





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Hazardous waste must be handled according to the requirements of the California Health & Safety Code, Division 20, Chapter 6.5, and the implementing regulations in Title 22 of the California Code of Regulations, Division 4.5. For example, hazardous waste regulations do not allow the mixing of incompatible wastes (such as those which could produce heat or pressure, fire or explosion, violent reaction, flammable gasses, etc.), or placing wastes into incompatible containers (for example those that may cause corrosion) (Cal. Code Regs., title 22, §§ 66265.177 and 66265.172, respectively), or contamination of used oil (Health and Safety Code § 25250.7). Additionally, there are specific regulations governing containers that hold hazardous waste that must be followed (Cal. Code Regs., title 22, §§ 66265.170 through 66265.178). Should the hazardous waste be released into the environment from being mishandled anywhere along the way, from generation to disposal, all who handled them are liable for the costs of cleanup, as well as penalties.

Options for managing materials and hazardous wastes

DTSC offers the following options for handling materials and wastes found in foreclosed homes. Because local household hazardous waste collection facilities operate differently, and because specific situations will vary, DTSC suggests that you contact the local city or county directly to determine if other options are available (such as curbside programs).

Option 1- Use the materials for their intended purpose. Many of the common household chemicals left by prior property owners may still be usable for their intended purpose. There could be opportunities through partnerships with local charities, or other businesses, that will make use of some of the materials. Any material that is used by others for its intended purpose does not constitute a waste. This option will generally be much more cost effective than managing the materials as wastes. However, materials may not be accumulated or stored in lieu of disposal. (Health and Safety Code § 25143.2(b)(2)).

Option 2 – Qualifying as a CESQG

In some cases, businesses may qualify to be a Conditionally Exempt Small Quantity Generator (CESQG). You may qualify to be a CESQG if you generate no more than 100 kilograms of hazardous waste, or 1 kilogram of extremely hazardous waste, in a calendar month, at each site (Health and Safety Code § 25218.1, 40 C.F.R. § 261.5). Although an EPA ID number is still required, CESQGs may self-transport hazardous waste to a nearby household hazardous waste collection facility without being a registered hazardous waste transporter, or using a hazardous waste manifest, as long the household hazardous waste facility allows it (Health and Safety Code § 25163 (c) and (f)). The total amount that can be transported cannot exceed 100 kilograms (approximately 27 gallons liquid or a total dry weight of 220 pounds), or 1 kilogram of extremely hazardous waste, per month (Health and Safety Code § 25218.5 (b)(1)(C)). A fee may be charged by the facility for any hazardous waste accepted from a CESQG (Health and Safety Code, § 25218.3(c)). *Prior to each transport you must first contact the local household hazardous waste collection facility for any restrictions it may have in place, to verify acceptance of the waste, and identify weight limitations.*

In California, disposal of hazardous waste into the trash, a municipal landfill, down the drain, or at any other unauthorized point is illegal. The illegal disposal of hazardous waste is a crime and someone who illegally disposes of a hazardous waste may be subject to fines of up to \$25,000 (per day, per incident) and/or imprisonment (Health & Saf. Code, §§ 25189 - 25196).





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Option 3 – Disposal using a registered hazardous waste transporter

Generally, hazardous wastes must be transported by a registered hazardous waste transporter using a [uniform hazardous waste manifest](#), under a generator identification number (commonly referred to as an EPA ID number), and taken to an authorized [treatment, storage, and disposal facility \(TSDF\)](#). Generators must have an EPA ID Number specific to the address at which the hazardous waste is generated. A temporary 90-day EPA ID number should be acquired for each site address by calling 1-800-61-TOXIC (1-800-618-6942). See the [EPA ID and Manifest page](#) of DTSC's Web site for more information, or the DTSC's [Regulatory Assistance Officer's Web page](#) for hazardous waste generators information.

Option 3a – Hire a registered hazardous waste transporter

DTSC maintains a list of [registered hazardous waste transporters](#) that will haul hazardous waste for the generator to a permitted facility. The transporter will require an EPA ID number and a uniform hazardous waste manifest signed by the generator, or his representative, at the point of generation.

Option 3b – Register as a hazardous waste transporter

Persons seeking to transport hazardous waste themselves may opt to become registered hazardous waste transporters. This is done by submitting a [Transporter Registration Application](#) to DTSC. Public liability coverage is required for registration. Businesses registering as hazardous waste transporters may also need to [register](#) with the California Highway Patrol (see [Trucks Transporting Hazardous Materials, CHP 800c](#)) as hazardous materials transporters, depending on the amount and type of hazardous waste they transport, and must follow all [U.S. Department of Transportation](#) and DTSC requirements for packaging, marking, shipping, and placarding. DTSC's Regulatory Assistance Officers created a [Web page just for hazardous waste transporters](#) which contains more information.

Requirements for some common hazardous wastes found in residences

Certain wastes may be managed under alternative requirements. If the requirements are not met, then they are managed under full hazardous waste regulations.

- **Recyclable water-based latex paint**, still in liquid form, may or may not be a hazardous waste. If it is not a hazardous waste it may be transported *without* the use of a hazardous waste manifest, or without the use of a registered hazardous waste transporter, provided specified conditions are met (e.g., such as use of a bill of lading with all pertinent information: dates, quantities, name, address, phone number, etc., and including signatures of the transporter and representative of the originating location) (Health and Safety Code §§ 25217-25217.4).
- **Lead-acid vehicle batteries** sent for recycling may be transported *without* a hazardous waste manifest, or use of a registered hazardous waste transporter to a person who stores the batteries or who recycles, uses, reuses, or reclaims the batteries (such as an auto parts store), provided ten (10) or fewer batteries are handled and transported at any one time (Cal. Code Regs., title 22, § 66266.81(a)(1)).
- **Used oil and oil filters** that are not contaminated with hazardous waste may be taken to a certified used oil collection center (usually auto parts store or local household hazardous waste collection center). Generators may self transport, without the use of a





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registered hazardous waste transporter, up to twenty gallons of used oil per trip to these facilities, provided no container is greater than five gallons in capacity. If you first call the certified collection center and get approval, you may transport up to fifty-five gallons of used oil. Used oil filters (drained of all oil) may be managed as exempt scrap metal and transported to any metal recycling facility (Cal. Code Regs. title 22, § 66266.130). Drained oil filters may also be accepted at the used oil collection centers.

- “[Universal Wastes](#)” such as electronic devices, fluorescent lamps, aerosol cans, and alkaline batteries, are hazardous wastes with reduced management standards (Cal. Code Regs., title 22, § 66273.9), and may be handled without an EPA ID Number, and may be transported *without the use of a hazardous waste manifest, or use of a registered hazardous waste transporter*. If you are a Conditionally Exempt Small Quantity *Universal Waste Generator (CESQUWG)* for the property, the universal wastes may be transported to any other universal waste handler including a household hazardous waste collection facility (if they will accept it), or to an authorized treatment, storage, or disposal facility (Cal. Code Regs., title 22, § 66273).

Options for consolidating hazardous waste

The issue of whether wastes can be consolidated (mixed) prior to transportation is an important one. There are two options for consolidation of hazardous wastes. The difference between them is what location is considered the “point of generation.” As stated previously, hazardous waste regulations do not allow the mixing of incompatible wastes, or storing wastes in incompatible containers (Cal. Code Regs., title 22, §§ 66265.177 and 66265.172, respectively), or contamination of used oil (Health and Safety Code § 25250.7). Additionally, there are container regulations that must be adhered to (Cal. Code Regs., title 22, §§ 66265.170-.178).

Consolidation Option 1 – At point of generation

Compatible hazardous wastes may be combined at the foreclosed property, making this the point of generation. They would then be transported from the property using a hazardous waste manifest and a registered hazardous waste transporter, under an EPA ID number.

Consolidation Option 2 - Remote site consolidation

The law contains a provision that allows generators to transport hazardous wastes from remote, unstaffed sites to a location designated as a “consolidation site”, using their own vehicles, without requiring a uniform hazardous waste manifest, or being a registered transporter. The wastes are managed as if they were generated at the consolidation site, making it the point of generation. This provision requires prior notification to the appropriate local [Certified Unified Program Agency \(CUPA\)](#) for each site, and compliance with safety, spill response, and record keeping standards (Health and Safety Code §§ 25110.10, 25121.3, and 25163.3). The hazardous waste must then be transported from the consolidation site using an EPA ID Number, hazardous waste manifest, and registered hazardous waste transporter.

Still have questions?

If you have questions about any of this information, or about hazardous waste management, call the Regulatory Assistance Officers at 800-72TOXIC, or e-mail them at RAO@dtsc.ca.gov. You should hear back from one of them in one to two business days. You can also check the [Regulatory Assistance Web page](#) on DTSC’s Web site for information, resources, FAQs, and updates on hazardous waste regulations at www.dtsc.ca.gov.





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Disclaimer

This fact sheet does not replace or supersede statutes or regulations, and is not binding upon DTSC, nor does it have the force of law. It provides only informal guidance regarding management of hazardous waste for the convenience of the public. If you would like a formal opinion on a matter by DTSC, please contact the responsible program office directly. You should also refer to the statutes and regulations, DTSC Policies and Procedures, and other formal documents.

We also encourage you to complete a Cal/EPA Customer Satisfaction survey.
<http://www.calepa.ca.gov/Customer/> so that we may improve our Regulatory Assistance Officer Program.

To report illegal handling, discharge, or disposal of hazardous waste, call the Waste Alert Hotline at (800) 698-6942 or file a complaint on-line.

