



Department of  
Toxic Substances  
Control

*Preventing  
environmental  
damage from  
hazardous waste,  
and restoring  
contaminated  
sites for all  
Californians.*



State of California



California  
Environmental  
Protection Agency

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## Managing Hazardous Wastes at Transfer Facilities

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) prepared this fact sheet to provide transporters and treatment, storage and disposal facilities (TSDFs) guidance on federal and state laws and regulations that apply to transfer facilities.

Activities related to the transportation of hazardous wastes in California are regulated by:

- Health and Safety Code (Health & Saf. Code),
- Vehicle Code,
- California Code of Regulations (Cal. Code Regs.), title 22, chapter 13, and
- Code of Federal Regulations (CFR), title 40, part 263.

In developing its regulations, DTSC and the United States (U.S.) Environmental Protection Agency (U.S. EPA) adopted by reference the U.S. Department of Transportation's (DOT) Hazardous Materials Transportation Act regulations (49 CFR sections 171-179). DTSC's and U.S. EPA's regulations are consistent with each other, but they do not include all of the provisions contained in DOT's regulations. As such, transporters must ensure that their operations comply with all applicable state and federal regulations.

This fact sheet clarifies terms that are defined in law associated with hazardous waste transportation and explains the waste transfer activities that are allowed by the persons who handle these wastes while in transit. Hazardous waste "handling"<sup>1</sup> is defined as the transportation or transfer from one place to another, pumping, processing, storing or packaging of hazardous waste.

### Transfer Facilities Defined

In the context of hazardous waste management, the term "transfer,"<sup>2</sup> means the loading, unloading, pumping or packaging of hazardous waste. A transfer facility<sup>3</sup> is any hazardous waste facility<sup>4</sup> that is not an on site facility, i.e. an offsite facility,<sup>5</sup> that is related to the transportation<sup>6</sup> of hazardous waste, including but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation. A hazardous waste facility means all contiguous land and structures, other appurtenances and improvements on the land for the treatment, transfer, storage, resource recovery, disposal or recycling of hazardous waste. The operator of a facility that accepts hazardous waste for storage, repackaging or bulking must obtain formal authorization for those activities through the hazardous waste permit process.

<sup>1</sup> Cal. Code Regs., title 22, section 66260.10

<sup>2</sup> Cal. Code Regs., title 22, section 66260.10

<sup>3</sup> Cal. Code Regs., title 22, section 66260.10

<sup>4</sup> Cal. Code Regs., title 22, section 66260.10

<sup>5</sup> Health & Saf. Code section 25123.3(a)(3)

<sup>6</sup> Transportation related facilities conduct transfer of waste containers between transport vehicles and /or modes of transportation. A transfer facility under RCRA is strictly an intermediate temporary facility operated by a transporter (68 Fed. Reg. 61906 (10/30/2003)).



Hazardous waste transporters are exempt from storage facility permit requirements so long as they observe the limits on storage time and handling.

Transfer facilities fall into three main categories:

- An exempt transfer facility operated by a registered transporter,<sup>7</sup>
- A transfer facility operating under the authority of a RCRA permit,<sup>8</sup> and
- A transfer facility operating under the authority of a Standardized Permit.

Figure 1 depicts the differences and highlights what each is authorized to do. By definition, only a facility or the portions of a permitted facility that are related to the transportation of hazardous wastes can be operated as an exempt transfer facility, i.e. permitted or exempt.<sup>8</sup> When the wastes remain in the containers in which they were shipped in and are at the transfer facility for 6 days or less (10 days if the property is zoned for industrial land use, or with some restrictions, agricultural use), the requirements that apply to owners and operators of Hazardous Waste Transfer, Treatment, Storage and Disposal Facilities<sup>10</sup> do not apply.

The following paragraphs summarize, in more detail, the differences between the facilities operating transfer facilities.

### Exempt Transfer Facilities

A transporter operating a transfer facility is exempt from the requirements regarding waste storage, provided that specified conditions are met.<sup>11</sup> The conditions are identified in law and regulation. One of those conditions is that, only a registered transporter may operate an exempt transfer facility. The exempt transfer facility is the place a transporter may consolidate or transfer shipments to different vehicles in order to redirect them to their final destination. A transfer facility operated by a transporter is not subject to the requirements regarding a permit for waste storage if during the normal course of transportation all of the following conditions are met:

- Wastes are **held** for less than 6 or 10 days; and
- Manifested packages or containers are transferred from one vehicle to another (section 66263.18 (a)); and
- The packages or containers are the same packages and containers that the

wastes arrived in; and

- No additional handling (i.e. bulking) takes place (section 66263.18(b)).

State law authorizes only the transfer of packaged or containerized hazardous wastes at exempt transfer facilities. Wastes must remain in the containers that they arrive in. The containers must remain closed and cannot be opened for sampling or other handling. Wastes cannot be consolidated into larger containers. Wastes may only be held on vehicles, loading docks or in storage areas that are operated by the transporter. Waste may only be held for less than 6 days or 10 days depending on the local zoning; commercial / mixed use and industrial / agricultural, respectively.

The following paragraphs summarize and clarify, terms that are used in Cal. Code Regs., title 22, section 66263.18. These terms are the basis for the exemption from storage requirements, that are provided to transporters provided wastes are handled as specified.

The phrase “**Vehicle to another**”<sup>12</sup> means that manifested shipments of wastes must be stored in the container that the wastes arrived in and can only be taken from one vehicle and placed on another vehicle without any handling occurring.<sup>13</sup>

<sup>7</sup> Cal. Code Regs., title 22 section 66263.18

<sup>8</sup> Cal. Code Regs., title 22, chapters 14 and 15,

<sup>9</sup> Health & Saf. Code, section 25123.3(a)(3)

<sup>10</sup> Cal. Code Regs., title 22, sections 66264.1(g)(9) & 66265.1(d)(12)

<sup>11</sup> Health & Saf. Code section 25123.3(b) & Cal. Code Regs., title 22, section 66263.18

<sup>12</sup> Cal. Code Regs., title 22, section 66263.18(a)

<sup>13</sup> Although the language implies that wastes must be moved from one vehicle to another vehicle, legislative history and existing practices challenge this interpretation. Language contained in the Information Digest and Statement of Reasons for RCRA Authorization (R-95-83), page 29, second paragraph, states that subsection (a) of this section is equivalent to the federal regulation under 40 CFR section 263.12 that requires that waste be stored in containers. “The primary change in this subsection from the federal language is regulatory language designed to prevent any mixing, pumping, alteration of packaging or handling of the waste which may lead to discharge of the waste to the environment. As such, wastes must remain in the containers that they arrived in while stored at the transfer facility and be loaded on to another vehicle in the same containers.”

FIGURE 1

TRANSFER FACILITY	A transfer facility may be either permitted or exempt. The permit authorizes the activities and establishes the conditions that must be followed by the operator of a permitted transfer facility. Exempt facilities are owned and operated by the transporter of the waste. Permitted transfer facilities may allow a transporter to operate an exempt transfer facility in their loading dock area, however the wastes being held under the exemption for transfer facilities may not be outside of the transportation related functions of the permitted facility and must remain under the custody of the transporter.		
	PERMITTED		EXEMPT
	RCRA PERMIT FACILITY	STANDARDIZED PERMIT FACILITY	EXEMPT TRANSFER FACILITY
Operated by....	Owner/operator of facility	Owner/operator of facility	Operated by the transporter
Is authorized to.....	<ul style="list-style-type: none"> <li>• Receive wastes as designated on the permit, (must sign all manifests).</li> <li>• <u>Open</u> containers in an authorized unit to sample, transfer or bulk package containerized wastes to a tank or another container.</li> <li>• Store wastes as specified in permit.</li> <li>• Handle wastes as specified in permit.</li> </ul>	<ul style="list-style-type: none"> <li>• Transfer and store <u>Non RCRA Wastes</u>. (Common examples are used oil, anti-freeze, wastes containing copper &amp; other metals.)</li> <li>• <u>Open</u> containers in an authorized unit to sample, transfer or bulk package containerized wastes to a tank or another container.</li> </ul>	<ul style="list-style-type: none"> <li>• Transfer wastes in containers from one vehicle to another,</li> <li>• Move waste containers from truck onto ground, into a storage building or another truck, and move a trailer from one tractor to another.</li> <li>• Hold wastes in containers on site of a transportation related facility for:               <ul style="list-style-type: none"> <li>○ for 6 days or less at facilities located in commercial, or mixed zoned areas</li> <li>○ 10 days or less at facilities located in industrial or agricultural zoned areas</li> </ul> </li> </ul>
Restrictions....			<ul style="list-style-type: none"> <li>• Waste must remain in the container it was in when offered by the generator.</li> <li>• May only park in areas that DOT and other hazardous materials laws, regulations and ordinances allow (areas zoned for residential land use are prohibited).</li> </ul>
Is <b>NOT</b> authorized to ....	<ul style="list-style-type: none"> <li>• Act as a transfer facility for wastes specifically prohibited in permit conditions, or</li> <li>• Act as an exempt transfer facility for wastes that are designated to the facility.</li> </ul>	<ul style="list-style-type: none"> <li>• Store waste oil for longer than 35 days.</li> </ul>	<ul style="list-style-type: none"> <li>• Open containers</li> <li>• Pump from container to tank, tank to tank, or tank to container.</li> <li>• Bulk or consolidate at Exempt Transfer facility</li> <li>• Repackage wastes in any way (except for emergencies)</li> </ul>

The containers can be stored onsite in loading docks or designated storage areas, but in order for an exempt transfer facility to remain eligible for the reduced transfer facility requirements, the wastes must remain in the original containers and the containers may not be opened by the exempt transfer facility. When wastes remain in the containers that they were shipped in and have not reached the final destination, the wastes continue to be subject to DOT Hazardous Materials Regulations. Once waste has arrived at its destination or is handled on site the wastes are no longer in transit nor subject to DOT's regulations but are instead subject to hazardous waste laws.<sup>14</sup>

The phrase "**no additional handling**,"<sup>15</sup> means "no mixing, pumping, altering of packaging or handling, of wastes which may lead to a discharge" can take place at an exempt transfer facility. The containers must remain intact and cannot be opened at exempt transfer facilities.

A permit is required when a facility bulks, packages or containerizes hazardous wastes or handles wastes in any manner other than transferring a packaged or containerized waste from one vehicle to another.<sup>16</sup>

The term "**day**"<sup>17</sup> is defined in state regulations however, the phrase "**normal course of transportation**," is not. A day is defined as a calendar day, except that when counting days, the first partial day does not count. In addition, if the last day falls on a State holiday, Saturday or Sunday, these days do not count toward the 6 or 10 day limits.

Although, the phrase "normal course of transportation" is not specifically defined in state or federal laws or regulations, the law requires that there are no unnecessary delays in the movement of shipments.<sup>18</sup> Further, U.S. EPA letters and guidance documents interpret the phrase "normal course of transportation," to mean the progress of a waste from the point of origin to its final destination. What constitutes "normal course of transportation" depends on the particular facts of each case.<sup>19</sup> U.S. EPA made a determination that routing waste back to the same location did not constitute normal course of transportation.<sup>20</sup> As such, moving waste between two points without moving the waste closer to its final destination does not constitute "normal course of transportation."

A transporter must comply with the provisions of the Vehicle Code regarding hazardous wastes

and materials. Vehicles used for the transportation of hazardous materials cannot be left unattended or parked overnight in a residential district as defined in Vehicle Code section 515.<sup>21</sup> Further, transportation must be on interstate highways that require the least overall transit time, and avoid congested thoroughfares, places where crowds are assembled, and residential districts. Transporters that deviate from the requirements cannot do so on the basis of operating convenience.

A transporter must also operate in compliance with DOT requirements governing the transportation of hazardous materials. One of the requirements is that in the course of transportation a vehicle containing hazardous materials (i.e. wastes) must be attended<sup>22</sup> by its driver and cannot be parked within five feet of the traveled portion of a public street or highway except brief periods when necessary for operations and it is impractical to park anywhere else. A vehicle is considered parked when it is stopped for a purpose unrelated to driving, (e.g., fueling eating, loading and unloading). Parking at fueling facilities to obtain fuel, oil, etc., or at a carriers terminal are considered necessities of operation.<sup>23</sup> A transporter may designate a qualified representative to attend to the vehicle only if the representative:

- Is aware of the nature of the hazardous materials contained in the vehicle;
- Has been instructed on the procedures that must be followed in an emergency and is authorized to move the vehicle and has the means and ability to do so (49 CFR section 397.5).

<sup>14</sup> Federal Register Vol. 68 No. 210, 10/30/03

<sup>15</sup> Cal. Code Regs., title 22, section 66263.18(b)

<sup>16</sup> Health & Saf. Code section 25200.19

<sup>17</sup> Cal. Code Regs., title 22, section 66260.10

<sup>18</sup> 49 CFR 177.800(d)

<sup>19</sup> Office of Solid Waste and Emergency Response (OSWER) No. 9461.1990(02), 10/30/90; OSWER No. 9461.1994(02) (8/17/94) & 45 FR86966, 12/31/80.

<sup>20</sup> OSWER No. 9461.1990(01), 6/7/90

<sup>21</sup> Vehicle Code section 31303.

<sup>22</sup> A motor vehicle is attended when the person in charge of the vehicle is on the vehicle, awake, and not in the sleeper berth, or is within 100 feet of the vehicle and has it within his/her unobstructed field of view (49 CFR section 397.5(d)(1) ).

<sup>23</sup> 49 CFR section 397.7

Wastes that are parked at exempt transfer facilities must remain under the control and custody of the transporter as designated on the manifest.<sup>24</sup> A transporter must have a valid EPA identification number, and be registered with DTSC to transport hazardous wastes in California. For further information about hazardous waste transporter registration and requirements, see DTSC's fact sheet on "Transporter Requirements."

### **Permitted Transfer Facilities**

A hazardous waste facility that obtains a Resource Conservation and Recovery Act (RCRA) or Standardized permit to receive hazardous wastes from an offsite location may ONLY accept, transfer and store hazardous wastes as specified in the permit. The permit specifies the types and quantities of hazardous wastes that may be accepted for transfer, storage and treatment or disposal.

### **RCRA Permit**

A RCRA Permitted Transfer Facility is an off-site facility at which RCRA regulated wastes may be stored in authorized areas, re-packaged, consolidated into larger containers or held in storage tanks prior to shipment to another location.

When wastes arrive at the designated facility, it constitutes completion of the transportation phase and the facility operator must acknowledge receipt of the wastes by signing the manifest. Permitted facilities are authorized to receive hazardous wastes from offsite locations to bulk, repackage or consolidate provided:

- The loading and unloading is not prohibited or otherwise limited by the facility's permit;
- Wastes are not held on the vehicle for more than 10 days in the loading and unloading areas;
- Wastes are moved directly between an authorized unit and the transport vehicle;
- Loading and unloading is done within the boundaries of the facility;
- The facility's permitted storage capacity would not be exceeded by the amount of waste being loaded and unloaded; and,
- Any areas used for loading and unloading have secondary containment.

Wastes may remain on the transport vehicle for up to 10 days after arrival at a facility but, once off-loaded from the vehicle, the waste must be moved directly to an authorized waste management unit.<sup>25</sup> As specified in the facility's permit, waste must be placed into the appropriate unit authorized for waste sampling and or storage. Sampling can not be done outside of the authorized units. If the wastes are subsequently rejected by the facility operator, a new manifest must be prepared.<sup>26</sup> Waste leaving a permitted transfer facility, must be moved directly from an authorized unit to the transport vehicle, except for the incidental period of time necessary to safely move the waste between the authorized unit and a transport vehicle.

### **Standardized Permit**

The primary difference between facilities with a RCRA and Standardized Permit is that the RCRA permitted facility can use stationary tanks for storing RCRA hazardous wastes. Standardized Permit facilities may bulk transfer RCRA wastes between transport vehicles but may only store non RCRA hazardous wastes. An operator of a facility with a Standardized Permit must place wastes in an authorized unit as specified in the permit prior to sampling or transferring the contents.

A facility with a Standardized Permit operating an used oil transfer facility may transfer used oil into stationary tanks with secondary containment but the used oil may not be stored longer than 35 days without triggering additional requirements under RCRA.<sup>27</sup>

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<sup>24</sup> By definition, a transfer facility must be owned and operated by a transporter company as defined in 40 CFR section 263.12. Although section 66263.18 does not explicitly state that only a transporter company can operate an exempt transfer facility, the Final Statement of Reasons (R-89-17), introductory paragraph, states that the SOR only explains those instances where regulations differ from the corresponding federal regulation because these are the only instances where the state could be creating new regulatory requirements. In the adoption of section 66263.18, DTSC did not make a distinction between the federal language contained in section 263.12 and the state's language.

<sup>25</sup> Health & Saf. Code section 25200.19(c)(1)

<sup>26</sup> Health & Saf. Code section 25160.4

<sup>27</sup> 40 CFR section 279.45 (a)

A RCRA or Standardized Permitted Facility may operate an exempt transfer facility for wastes that it is not the “designated facility” on the manifest and requires further transportation to the designated facility. If the wastes arrive at a TSDF which is not the designated TSDF on the manifest, the TSDF is subject to the restrictions applicable to exempt transfer facilities.

As such, the TSDF cannot exceed the 10-day holding period and the wastes must remain in and be stored in containers meeting the applicable DOT requirements on packaging,<sup>28</sup> the containers cannot be opened for sampling, transferring or bulking and the wastes must remain in the areas of the facility that are related to the transportation of hazardous wastes. If a transfer facility whether permitted or exempt does not comply with the applicable conditions, it is in violation of the requirements and subject to enforcement.

### **Siting Considerations for Transfer Facilities**

Legislation in 2004<sup>29</sup> placed additional restrictions on the location of transfer facilities, whether permitted or exempt. The exemption provided to transfer facilities in Health and Safety Code section 25123.3(b) is dependent on a facility not meeting the definition of a storage facility. If a facility meets the definition of a storage facility, then the facility is not eligible for the exemption and cannot operate as an exempt transfer facility.

An exempt transfer facility may not be operated in an area zoned for residential land use because operation in a residential zone would define the transfer facility as a storage facility, which would require a State or Federal permit.<sup>30</sup> In addition, RCRA and State permitting requirements require that authorization of a facility be consistent with the land use designated by the local municipality.

Transfer facilities beginning initial operations on or after January 1, 2005 must be located a minimum of 500 feet away from a structure that is used for special uses<sup>31</sup> such as schools, day care centers for children, human hospitals, and permanently occupied human habitations including mobile homes installed for the use as permanently occupied human habitation. In addition, if these facilities are located in an area zoned agricultural they are restricted to holding

wastes for 6 days or less.<sup>32</sup> Transporters beginning initial operations on or after January 1, 2005 who intend to operate an exempt transfer facility must comply with this restriction.

Exempt Transfer facilities operating in areas zoned commercial or another land use cannot hold wastes on site for longer than 6 days<sup>33</sup> or 10 days in areas zoned industrial or agricultural.<sup>34</sup>

The holding period of wastes at exempt transfer facilities is restricted by law to 6 days or less at transfer facilities that began operations prior to January 1, 2005, that are located in areas zoned agricultural, and that are within 500 feet of a structure that is used for special uses.<sup>35</sup> Failure to comply with any of these provisions is subject to enforcement.

### **For More Information**

For more information related to the transportation of hazardous wastes contact DTSC’s Transportation Section at (916) 255-4368.

For information related to handling and permitting requirements contact DTSC’s Permit Program Development Section at (916) 322-0584.

For all other information please contact the DTSC office nearest you, or call the Regional Public and Business Liaisons at (800) 72TOXIC (1-800-728-6942).

The text of the regulations and related information is available on DTSC’s website at [www.dtsc.ca.gov](http://www.dtsc.ca.gov) and in [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html) under Health and Safety Code, Division 20 Chapter 6.5, Article and [www.calregs.com/](http://www.calregs.com/) under Title 22, Division 4.5.

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<sup>28</sup> 49 CFR parts 173, 178 and 179

<sup>29</sup> Assembly Bill 2251 (Lowenthal), 2004

<sup>30</sup> Health & Saf. Code sections 25123.3(a)(3) & 25123(b)(3)(A)(i)

<sup>31</sup> Health & Saf. Code section 25123.2(a)(3)

<sup>32</sup> Health & Saf. Code section 25123.3(a)(3) & 25123.3(b)(3)(A)(v)

<sup>33</sup> Health & Saf. Code section 25123.3(a)(3) & 25123.3(b)(3)(A)(iii)

<sup>34</sup> Health & Saf. Code section 25123.3(a)(3) & 25123.3(b)(3)(A)(iv)

<sup>35</sup> Health & Saf. Code sections 25123.3(a)(3) & 25123.3(b)(3)(A)(v)