

CALIFORNIA GROCERS ASSOCIATION

Hazardous Waste Presentation



presented by

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DOWNEY | **BRAND**
ATTORNEYS LLP

Hazardous Waste

Why should grocers and other retailers care about hazardous waste?

- Hazardous waste regulations apply to grocers and other retailers

Big Box and Home Improvement Stores



Drug Stores



Grocery Stores



Enforcement Actions

- **Wal-Mart**
 - Wal-Mart To Pay \$27.6 Million In California Dumping Case
- **Target**
 - Target to pay \$22.5 million to settle hazardous-waste dumping case

Enforcement Actions

- **Home Depot**
 - [Home Depot Pays \\$10 Million To Settle Hazardous Waste Case](#)
- **Walgreens**
 - [Walgreens to Pay \\$16.57 Million for Hazardous Waste Disposal Violations](#)

Enforcement Actions

- **CVS**
 - CVS retail giant must pay \$13.75 million in fines over waste disposal violations
- **Save-Mart**
 - Save Mart pays \$2.6M in Waste Complaint

Hazardous Waste

- EPA increased focus on grocer/ retailers as well.
- EPA looking at potential regulations/ revisions to regulations this year

The screenshot shows a web browser window displaying the EPA Retail Industry Portal. The browser's address bar shows the URL: <http://www.epa.gov/retailindustry/facilities/waste/hazardous/>. The page title is "Hazardous Waste | Retail Industry Portal | US EPA - Windows Internet Explorer".

The website header includes the EPA logo and the text "U.S. ENVIRONMENTAL PROTECTION AGENCY". The main navigation bar features a search box and a "Share" button. Below the navigation bar, the breadcrumb trail reads: "You are here: [EPA Home](#) » [Retail Industry Portal](#) » [Facilities Management](#) » [Waste/Materials Management](#) » Hazardous Waste".

Waste/Materials Management - Hazardous Waste

Hazardous waste is a waste that is dangerous or potentially harmful to human health or the environment. Hazardous wastes can be liquids, solids, contained gases, or sludges. They can be discarded commercial products, like cleaning fluids or pesticides.

Compliance Resources:
The management of hazardous waste is regulated.

- [Film Development](#)
- [Generators & Transporters](#)
- [Managing Hazardous Waste](#)
- [Managing Recalled Toys](#)
- [Universal Waste](#)
- [Reporting](#)

Sustainability Resources
Several hazardous management practices, such as source reduction, can prevent or divert materials from the waste-stream.

[Top of page](#)

Facilities Management Topics

- Facilities Management
- Waste/Materials Management
 - Municipal Waste
 - Industrial Nonhazardous Waste
 - Hazardous Waste
 - Compliance Resources
 - Sustainability Resources
- Tanks/Containers

The browser's taskbar at the bottom shows several open applications: Start, Inbox - Microsoft Outlook, DOCS Open, Microsoft PowerPoint - [...], Hazardous Waste | R..., and Downey Brand: Admin: A... The system tray on the right shows the time as 1:31 PM and the date as 1/31/2010.

Hazardous Waste

Focus of Enforcement

- **Storage, handling, transportation and disposal of returned, damaged, recalled, used, and discarded products that are hazardous materials.**

Hazardous Waste

Focus on the Larger Players

- More Waste at issue
- Sets an example
- Trophy
- Attention will spread to others in the industry

Hazardous Waste

Background

- RCRA (1976)
- Hazardous Waste regulations (1980)
- Not designed with retailers in mind
- Paradox: Household waste exemption
- Key definitions: Waste, hazardous waste

Hazardous Waste

Waste or Solid Waste

- **Seemingly simple: any discarded material**
- **But, in the end, very slippery concept**
- **Storage: No longer used for its intended purpose**
- **Recycling: Legitimate or Sham**
- **Subject to reverse distribution**

Hazardous Waste

Hazardous Waste

- **Listed**
- **Characteristic**
 - Ignitable
 - Reactive
 - Corrosive
 - Toxic

Hazardous Waste

Basic Triage

- **Perfect World: Life is good**
- **Real World: Returns, breaks, shelf life**
- **Question 1: Subject to reverse distribution?**
- **Question 2: If not, is it hazardous?**

Hazardous Waste

Ignitable

- **Ignitable wastes are wastes that can easily catch on fire and sustain combustion. Can be liquids, gas or solid.**
 - Examples: lighter fluid, charcoal, rubbing alcohol, nail polish, nail polish remover, motor oil, etc.



Hazardous Waste

Corrosive

- **Corrosive wastes are acidic or alkaline (basic) wastes that can readily corrode or dissolve materials they come into contact with.**
 - Examples: drain cleaner, ammonia, lime/scale removers.



Hazardous Waste

Reactive

- **Reactive wastes are wastes that readily explode or undergo violent reactions.**
 - Examples: pool chemicals, chlorine, s, bleach, hydrogen peroxide.



Hazardous Waste

Toxic

- **Toxic wastes are wastes that cause deleterious health or environmental effects.**
 - Examples: soaps, fertilizers, batteries, insect repellent, cosmetics,



Hazardous Waste

Fundamental Problem

- **Generator Duty to determine if waste is hazardous waste**
- **Based on testing**
- **Or, based on process knowledge**
- **No process knowledge**
- **Too many products/waste streams**

Hazardous Waste

Three Main Challenges

1. Identifying products that are hazardous materials
2. Understanding when a hazardous material becomes a hazardous waste
3. Training employees to manage hazardous waste

Hazardous Waste

Identifying hazardous materials

- **Why?**
 - These are the products that are hazardous waste when discarded.
 - There are tens of thousands of common retail products that are hazardous materials under applicable federal and California law.



Hazardous Waste

Identifying hazardous materials:

- MSDS
- Manufacturer
- 3rd party service
- Aisles or categories of products

Hazardous Waste

MSDS

- Available from manufacturer
- Proprietary information



The Clorox Company
 1221 Broadway
 Oakland, CA 94612
 Tel. (510) 271-7000

Material Safety Data Sheet

I Product: CLOROX REGULAR-BLEACH	
Description: CLEAR, LIGHT YELLOW LIQUID WITH A CHARACTERISTIC CHLORINE ODOR	
Other Designations	Distributor
Clorox Bleach EPA Reg. No. 5813-50	Clorox Sales Company 1221 Broadway Oakland, CA 94612
Emergency Telephone Nos.	
For Medical Emergencies call: (800) 446-1014 For Transportation Emergencies Chemtrec (800) 424-9300	

II Health Hazard Data	III Hazardous Ingredients									
<p>DANGER: CORROSIVE. May cause severe irritation or damage to eyes and skin. Vapor or mist may irritate. Harmful if swallowed. Keep out of reach of children.</p> <p>Some clinical reports suggest a low potential for sensitization upon exaggerated exposure to sodium hypochlorite if skin damage (e.g., irritation) occurs during exposure. Under normal consumer use conditions the likelihood of any adverse health effects are low.</p> <p>Medical conditions that may be aggravated by exposure to high concentrations of vapor or mist: heart conditions or chronic respiratory problems such as asthma, emphysema, chronic bronchitis or obstructive lung disease.</p> <p>FIRST AID: <u>Eye Contact:</u> Hold eye open and rinse with water for 15-20 minutes. Remove contact lenses, after first 5 minutes. Continue rinsing eye. Call a physician. <u>Skin Contact:</u> Wash skin with water for 15-20 minutes. If irritation develops, call a physician. <u>Ingestion:</u> Do not induce vomiting. Drink a glassful of water. If irritation develops, call a physician. Do not give anything by mouth to an unconscious person. <u>Inhalation:</u> Remove to fresh air. If breathing is affected, call a physician.</p>	<table border="1"> <thead> <tr> <th>Ingredient</th> <th>Concentration</th> <th>Exposure Limit</th> </tr> </thead> <tbody> <tr> <td>Sodium hypochlorite CAS# 7681-52-9</td> <td>5 - 10%</td> <td>Not established</td> </tr> <tr> <td>Sodium hydroxide CAS# 1310-73-2</td> <td><1%</td> <td>2 mg/m³ 2 mg/m³</td> </tr> </tbody> </table> <p>¹ACGIH Threshold Limit Value (TLV) - Ceiling ²OSHA Permissible Exposure Limit (PEL) - Time Weighted Average (TWA)</p> <p>None of the ingredients in this product are on the IARC, NTP or OSHA carcinogen lists.</p>	Ingredient	Concentration	Exposure Limit	Sodium hypochlorite CAS# 7681-52-9	5 - 10%	Not established	Sodium hydroxide CAS# 1310-73-2	<1%	2 mg/m ³ 2 mg/m ³
Ingredient	Concentration	Exposure Limit								
Sodium hypochlorite CAS# 7681-52-9	5 - 10%	Not established								
Sodium hydroxide CAS# 1310-73-2	<1%	2 mg/m ³ 2 mg/m ³								

IV Special Protection and Precautions	V Transportation and Regulatory Data
<p>No special protection or precautions have been identified for using this product under directed consumer use conditions. The following recommendations are given for production facilities and for other conditions and situations where there is increased potential for accidental, large-scale or prolonged exposure.</p> <p><u>Hygienic Practices:</u> Avoid contact with eyes, skin and clothing. Wash hands after direct contact. Do not wear product-contaminated clothing for prolonged periods.</p> <p><u>Engineering Controls:</u> Use general ventilation to minimize exposure to vapor or mist.</p> <p><u>Personal Protective Equipment:</u> Wear safety goggles. Use rubber or nitrile gloves if in contact liquid, especially for prolonged periods.</p> <p>KEEP OUT OF REACH OF CHILDREN</p>	<p><u>DOT/IMDG/IATA:</u> - Not restricted.</p> <p><u>EPA - SARA TITLE III/CERCLA:</u> Bottled product is not reportable under Sections 311/312 and contains no chemicals reportable under Section 313. This product does contain chemicals (sodium hydroxide <0.2% and sodium hypochlorite <7.35%) that are regulated under Section 304/CERCLA.</p> <p><u>TSCA/DSL STATUS:</u> All components of this product are on the U.S. TSCA Inventory and Canadian DSL.</p>

VI Spill Procedures/Waste Disposal	VII Reactivity Data
<p><u>Spill Procedures:</u> Control spill. Containerize liquid and use absorbents on residual liquid; dispose appropriately. Wash area and let dry. For spills of multiple products, responders should evaluate the MSDS's of the products for incompatibility with sodium hypochlorite. Breathing protection should be worn in enclosed, and/or poorly ventilated areas until hazard assessment is complete.</p> <p><u>Waste Disposal:</u> Dispose of in accordance with all applicable federal, state, and local regulations.</p>	<p>Stable under normal use and storage conditions. Strong oxidizing agent. Reacts with other household chemicals such as toilet bowl cleaners, rust removers, vinegar, acids or ammonia containing products to produce hazardous gases, such as chlorine and other chlorinated species. Prolonged contact with metal may cause pitting or discoloration.</p>

VIII Fire and Explosion Data	IX Physical Data
<p><u>Flash Point:</u> None</p> <p><u>Special Firefighting Procedures:</u> None</p> <p><u>Unusual Fire/Explosion Hazards:</u> None. Not flammable or explosive. Product does not ignite when exposed to open flame.</p>	<p>Boiling point..... approx. 212°F/100°C</p> <p>Specific Gravity (H₂O=1) ~ 1.1 at 70°F</p> <p>Solubility in Water complete</p> <p>pH ~11.9</p>

Hazardous Waste

Manufacturer

- **Contract with manufacturer**
- **Disclosure**

Hazardous Waste

Third Party Services

- Information for a fee
- Risk involved

The  Wercs®

Hazardous Waste

Aisles or categories

- Household cleaners
- Cosmetics
- Personal hygiene
- Pesticides/fertilizers
- Photo processing
- Pharmacy

Hazardous Waste

Hazardous material to hazardous waste

- **Hazardous waste:**
 - A waste that exhibits any of the characteristics of hazardous waste or a waste that is listed in the regulations.
(22 CCR §66261.3)

Hazardous Waste

Universal Wastes

- **Not fully regulated**
 - CA includes:
 - certain types of batteries
 - electronic devices
 - mercury-containing equipment,
 - lamps
 - cathode ray tubes
 - cathode ray tube glass
 - aerosol cans
- (22 CCR §66261.9)

Hazardous Waste

Pharmacy Wastes

- **RCRA hazardous waste**
 - P-listed (Warfarin, Nicotine)
 - U-listed (Warfarin, Lindane),
 - Characteristic (ignitable, corrosive, toxic, reactive)- e.g. vaccines containing thimerosal

Hazardous Waste

Pharmacy Wastes

- **Non-RCRA (California only) hazardous waste (covered by Medical Waste Management Act)**
 - Segregate into containers labeled “incinerate only”, transport by medical waste transporter
- **Medical waste: sharps, vials from live vaccines**

Hazardous Waste

Hazardous Material to Hazardous Waste

- When it is discarded and/or can no longer be used for its intended purpose. (See 22 CCR §66261.2)

Hazardous Waste

Returned Products

- Options?
- Donation – Must ensure that products are being used, and not discarded.
- Surplus material

Hazardous Waste

Surplus Materials

- **Exempt from hazardous waste regulations**
- **Requirements:**
 - No major damage to the container
 - Not leaking and/or deteriorated
 - Minor dings, dents, scratches are okay
 - Product label in good condition
 - Product has real value
 - End user will use material how it is commonly used

Hazardous Waste

Damaged Products

- What kind of damage?
- Can the product be re-sold (onsite or to 3rd party)?
- Donated? (condition of label, leaking/deteriorated)

Hazardous Waste

Obsolete Products

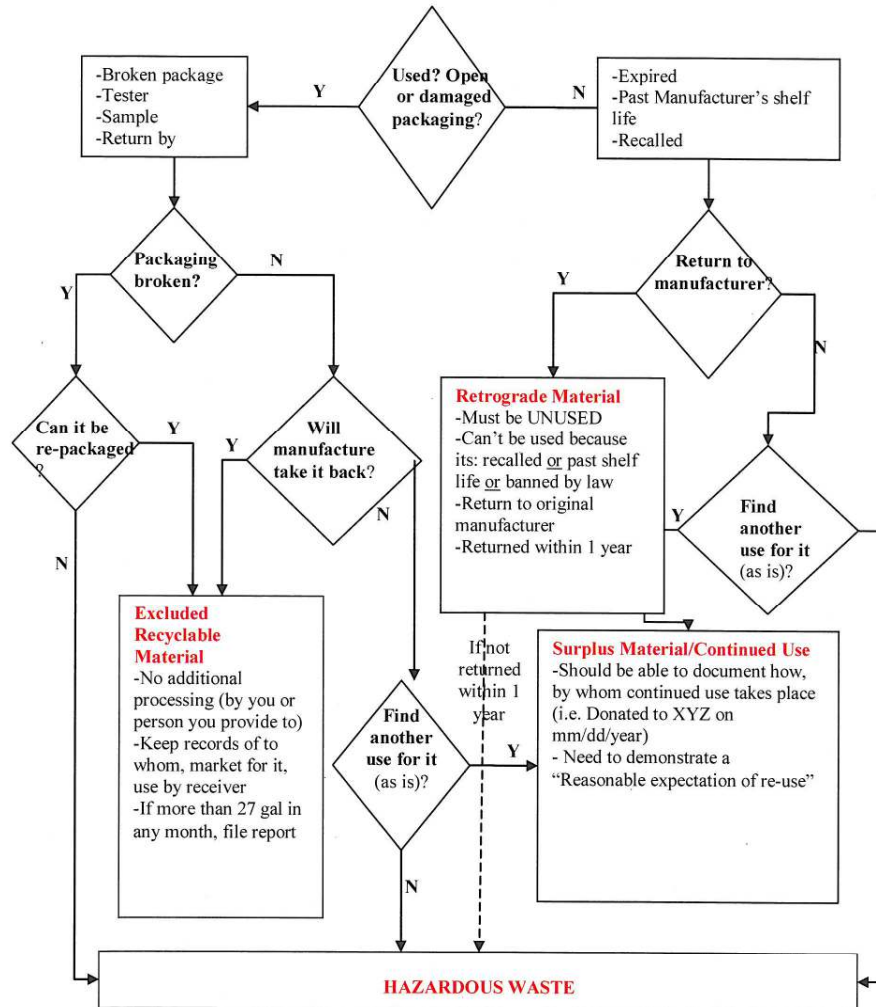
- Return to manufacturer to be used or reclaimed? (Potentially excluded recyclable material (“ERM”))

Hazardous Waste

Past shelf life

- Return to manufacturer? (ERM)
- Donation if still valuable?
- Disposal as hazardous waste?

**Non-Saleable Merchandise
Best Management Practices Decision Flowchart**



Hazardous Waste

Spills/Releases

- Spilled hazardous materials are wastes
- Need to consider condition of container to determine how to manage unspilled material.
- Empty containers

Hazardous Waste

Managing Hazardous Waste

Key: Ease of Implementation

1. Written hazardous waste management program
2. Hazardous waste management area
3. Spills/releases

Hazardous Waste

HW Management Program

- **Employee training: Only those employees whose responsibilities include hazardous material/waste management**
 - Initial training upon hire
 - Periodic refresher training

Hazardous Waste

HW Management Program

- **Quick reference materials**
 - Signs in hazardous waste management area
 - Signs near spill cleanup materials
 - Signs in Store returns area

Hazardous Waste

HW Management Area

- Designated area for storage of hazardous waste absorbent and damaged/leaking product (segregation of incompatible wastes)
- Sealable containers for storage of hazardous waste

Hazardous Waste

HW Management Area

- Multiple containers to keep incompatible wastes separated
- Labels for containers to record contents, CA EPA ID number, accumulation start date
- Arrange for transport/disposal of hazardous waste

Hazardous Waste

- One option -- Bucket system
- Bucket colors identify the hazardous waste properties (e.g., red for flammables)



Spills



Hazardous Waste

Spills/Releases

- Characterize the waste (cleanup may vary based upon type of hazardous waste)
- Have spill cleanup materials readily available (absorbent, broom, PPE, gloves)
- Training for employees on how to respond to a spill

Hazardous Waste

Hazardous Materials Business Plans

- **Who is required to have one?**
 - Owner/operator of a facility that handles a hazardous material that has a quantity at one time during the reporting year equal to or greater than 55 gallons, 500 pounds, or 200 cubic feet at standard temperature and pressure.
 - Exemption for hazardous materials contained solely in a consumer product for distribution to, or use by, the general public.

Hazardous Waste

What is a HMBP

- Inventory of hazardous materials at facility
- Emergency response plans in event of a reportable release of a hazardous material
- Training for all employees in safety procedures in event of a reportable release of a hazardous material

Hazardous Waste

HMBP Submission

- Local Certified Unified Program Agency (“CUPA”)
- Forms are available online from most CUPAs
- After initial submission, need to review annually for changes.

Hazardous Waste

Inspections

- Yes
- Review local CUPA procedures to understand how often they inspect

Hazardous Waste

Questions/Comments?