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**To:** [Rohlfes, Larry@DTSC](mailto:Rohlfes.Larry@DTSC)  
**Subject:** More background information on DTSC public outreach  
**Date:** Thursday, September 15, 2016 9:56:36 AM  
**Attachments:** [Inventory of Public Participation with CalEPA February 2005.pdf](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[Citations for DTSC public participation requirements \(not complete\).pdf](#)  
[AB389 Process.pdf](#)  
[EnviroStor suggestions on Public Participation workload tracking and performance measures.pdf](#)

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Hi Larry,

As a follow up from previous communications regarding DTSC public outreach, I looked through my files and have attached the following information that may assist you and the IRP in your present review of the DTSC public outreach program:

1. Inventory of Public Participation with CalEPA February 2005 (A little dated, but you may find some useful information)
2. Citations for DTSC public participation requirements (Unfortunately I could not find the complete document, but you will find a “cheat sheet” at the end of the document that I give to new public outreach and project management staff so that they can get a basic understanding of the outreach process for most projects excluding permits)
3. AB389 flow chart (Occasionally have to undertake public outreach for AB389 projects, which has an expanded set of outreach criteria if required)
4. EnviroStor suggestions on Public Participation workload tracking and performance measures (These were PPS recommendations sent to management about 5 years ago)

Get back to me if you would like to follow up on any of the attachments.

Thanks.

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## **Inventory of Public Participation with Cal/EPA February 2005**

### **I. Introduction**

The California Environmental Protection Agency (Cal/EPA) released its Environmental Justice Action Plan in October 2004. One of the cornerstones of the plan is public participation. The Plan specifically included the following goal:

#### **Improve Tools for Public Participation and Community Capacity-Building**

- Develop common public participation guidelines.
- Secure funds and implement Cal/EPA's EJ Small Grants Program.
- Identify opportunities to address EJ in existing loan and grant programs conducted by Cal/EPA's BDOs.
- Establish an agency-wide verbal and written translation contract.
- Develop EJ complaint resolution protocols.
- Update the Cal/EPA EJ Web page on an on-going basis to provide information and tools to facilitate public participation and community capacity-building.

The first step in developing these tools was to develop an inventory of current mandates, policies, practices and guidance materials within Cal/EPA.

### **II. Common Mandates**

The following is a list of mandates that applies to some or all of the Boards, Departments or Offices (BDOs) within Cal/EPA.

#### **California Public Records Act (Government Code 6250-6270)**

Grants access rights to members of the public to view and obtain copies of public records of all state and local public agencies in California. This includes all Cal/EPA BDOs as well as the agency itself. Certain documents are deemed confidential (trade secrets, some personal information, and some security information) and not disclosable, but the vast majority of documents are subject to public access. Procedures allowing agencies reasonable time and conditions for inspection are specified.

#### **Bagley-Keene Open Meeting Act**

Governs notice and open meeting requirements of the Waste Management Board, Air Board, and the State and Regional Water Boards and their appointed committees. The following issues are requirements:

- Any person may attend
- Any person attending an open and public meeting has the right to record it via video or audio
- Notice of the meeting on the internet at least 10 days prior and to any person requesting notice. Notice shall include specific agenda with description of items.

- Provide an opportunity for members of the public to speak on each agenda item

### **California Environmental Quality Act (CEQA)**

The primary purpose of the law is to require public agency decision makers to consider and document the environmental implications of their actions. In addition to this primary purpose, the Legislature set forth the following objectives of CEQA:

- To disclose to decision-makers and the public the significant environmental effects of proposed activities;
- To identify ways to avoid or reduce environmental damage;
- To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures;
- To disclose to the public reasons for agency approvals of projects with significant environmental impacts;
- To foster interagency coordination; and
- To enhance public participation.

Public participation requirements include:

- Public review and comment on key CEQA documents (Negative Declaration and Environmental Impact Reports)
- Notification of other CEQA decisions (Exemptions, Notice of Preparation, Notice of Determination)
- Public scoping meetings are highly recommended for EIRs.
- Public comment periods for a Negative Declaration are 30 days (20 minimum)
- Public comment for EIRs is 45 days
- Public hearings on EIRs is recommended but not mandatory.

### **Administrative Procedures Act (California Government Code Section 11340 et seq.)**

This statute established the Office of Administrative Law to provide for orderly review of proposed new regulations. The purpose is to reduce the number of administrative regulations and improve the quality of those regulations which are adopted. Public participation requirements for proposed regulations are found in Section 11346 and include:

1. Make available to the public the proposed regulation and supporting documentation.
2. Write regulations in plain English avoiding technical terms as much as possible.
3. Public notice a 45 day comment period and public hearing on the regulations (see Code for notice requirements). If a public hearing is not scheduled, the notice must state how any person may request a public hearing.
4. To increase public participation on proposed regulations which are complex or have a large number of proposals the rulemaking agency shall involve the public in discussions (public workshops) prior to the public comment period.
5. The Agency must prepare a Response to Comments before adopting a new regulation.

6. Electronic communication is encouraged. Regulations, public comments, and petitions may be posted electronically. Posting regulations electronically should not be the exclusive means of making them available to the public. Public comment may be made via email.

### **III. Office of Environmental Health Hazard Assessment**

#### **Mandates for Public Involvement**

Health and Safety Code 57003. Before adopting chemical health guidelines the office must hold public workshops.

#### **Public Involvement Process**

##### **SB 1082**

When OEHHA prepares a health evaluation of a chemical, it holds a public workshop which is accompanied by public notice. The workshops are noticed via OEHHA press releases in an effort to have them picked up by local media. County health and/or environmental management offices distribute the workshop announcements to their local stakeholders and other interested parties.

##### **Fish Advisories**

OEHHA is responsible for assessing health risks from contaminants in fish in designated bodies of water. Office obtains sampling data from other agencies for contaminants of concern, (i.e., Mercury, DDT, and PCBs). A risk assessment is conducted to determine if specified receptors (people) should limit their consumption of fish from the specified body of water. When it is determined that a risk exists, a fish advisory is developed. To disseminate the advisory, OEHHA puts out press releases and works directly with local media. The office also participates in local and regional task forces that develop and implement strategies to disseminate fish advisories to the public. Local agencies assist by disseminating the fish advisories, posting advisory signs at fishing piers and bait shops. They also translate and distribute the advisories to local stakeholder groups.

There is a 30- to 45-day public comment period before fish advisory is adopted. OEHHA also holds a public workshop (hearing) near the area of the advisory. The primary notification vehicle for public comment is press release.

Fish advisories are statutorily mandated to be published annually in the Department of Fish and Game Regulations.

### **IV. Department of Pesticide Regulation**

#### **Mandates for Public Involvement**

##### **Rulemaking**

For rulemaking: Section 11346 of the California Administrative Procedures Act.

### **Public Outreach Mandate**

In 2003, the Department was mandated (Food and Agricultural Code section 12841.2) to create a program to conduct outreach and education activities for worker safety, environmental safety, school safety, and proper handling and use. This mandate is currently unfunded.

### **Pest Management Advisory Committee**

Chartered in 1994, this committee was statutorily mandated to advise the Department on the dissemination of grants. However, no grant funds are (were) available and its role has evolved into a Department-wide major policy advisory committee discussing such issues as environmental justice and pesticides' role in air pollution. It consists of 15 community members and meets quarterly. Its agenda is posted on the Department's website and its meetings are open to the public.

### **Formal Public Involvement Processes**

#### **Published Guidance**

Revised Draft Environmental Justice Implementation Plan March 2004  
Draft (unpublished) Community Guide

### **Agricultural Pest Control Advisory Committee**

This committee advises the Department's director on pest control licensing and certification to ensure that pest control is safely performed by competent and responsible individuals and businesses are licensed or certified pursuant to Division 6- Pest Control Operations of the Food and Agricultural Code. The committee meets quarterly and consists of 14 members. Membership is comprised of industry-oriented individuals that also hold one or more Department pest control licenses, and include a representative of the County Agricultural Commissioners Association.

### **Pesticide Registration & Evaluation Committee (PREC)**

The PREC is an advisory group of governmental agencies and university representatives formed as part of CEQA Equivalency. The PREC fulfills an interagency consultation role mandated by the Food and Agricultural Code Section 14103 and the certification of the pesticide regulatory program as functionally equivalent under CEQA. The PREC brings together representatives of all public agencies whose activities or resources may be affected by the use of pesticides. The purpose of this interagency body is to advise the Department on pesticide regulatory, policy, and implementation issues. The PREC may be consulted on environmental, technical, scientific, policy, regulatory, and economic matters. These meetings are open to the general public.

### **Worker Safety Regulation Work Group (WSRWG)**

The WSRWG was formed in 2001 to formally meet an existing mandate (Food and Agricultural Code Sections 12980 and 12981) to consult on the development of worker safety regulations. The WSRWG also provides a forum for these public agencies to communicate with, and provide feedback to the Department regarding worker safety

issues. The WSRWG has a charter and meets on an as needed basis when developing worker safety regulations. The WSRWG includes representatives from the University of California, the Department of Industrial Relations, the Department of Food and Agriculture; the Office of Environmental Health Hazard Assessment, and the County Agricultural Commissioners Association. The Department of Health Services and Air Resources Board are consulted on an as needed basis.

#### **Healthy Schools Act of 2000-School Integrated Pest Management (IPM) Program**

This program is designed to reduce potential pesticide exposure for children and others in the school community. A School IPM Advisory Group (currently 39 members representing parents, school professionals, pest control professionals, the University of California, involved governmental entities, environmental and human health advocates, etc.) provided guidance in establishing the original program and provides feedback as issues arise. A School IPM List Serve communicates with a broader list of interested parties. Under the mandates of this law, the Department trains school districts and provides resources on IPM policies, programs and techniques; and offers an extensive Web site where teachers, parents, and others can find resources and get answers to questions. Website, training and policy development is statutorily mandated.

#### **Worker Health and Safety Branch (WHS)**

WHS meets with various stakeholder groups, including worker advocates, commodity organizations, grower representatives, and registrants, regarding pesticide issues impacting workers and the general public. Worker advocate groups include the United Farm Workers, Rural Legal Assistance Foundation, and Californians for Pesticide Reform. WHS meets with these groups on an as needed basis to obtain feedback on regulation concepts, and to identify and discuss worker protection issues. WHS also holds public workshops with stakeholders on regulations development, sends regulations to stakeholders for comment and posts regulatory information on the website.

#### **Farm Worker Safety Outreach**

WHS has coordinated or participated in several worker protection projects in rural communities. Examples include the San Luis Obispo Farm Safety Initiative, Agricultural Health Alliance Program in Watsonville, Farm Worker Health Initiative in San Diego, and the Mixteco Training Project in Fresno. WHS also participates in several professional healthcare official workshops and committee meetings each year to address pesticide farm worker safety issues.

#### **Ombudsman**

The Ombudsman responds to various public inquiries from stakeholders trying to get products registered in California. The Ombudsman is also responsible for holding annual workshops directed at the chemical and agricultural industries to explain the product registration process.

## **Informal Public Outreach Processes**

### ***Pest Management & Licensing Staff***

The staff members give presentations to professional organizations upon request, and periodically to commercial applicators.

### ***Pesticide Use Reporting Work Group***

Work group established at the University of California, Davis (UCD). UCD has a mandate to conduct Pesticide Education; the Department does not. The work group discusses and initiates pesticide research topics.

### **Pesticide Use Report (PUR) Program**

In addition to preparing the annual PUR summary reports, the Pest Management and Licensing Branch responds to specialized PUR data requests from researchers, public agencies, environmental and other public interest groups, and private citizens. Outreach also includes responding to questions regarding the data, the regulatory requirements, and county and state programs and processes.

### **Registration of Pesticide Products**

The Department has ongoing interaction with commercial pesticide manufacturers on registration issues. It allows public access to data used to register products. The Department holds an annual meeting with agriculture groups to discuss needs regarding products, harvesting practices when applying pesticides.

### **Enforcement Border Coordinator**

The coordinator is available for public speaking. The coordinator participates in Farm Worker Health Fairs, is the liaison for Kern, Inyo, Mono counties, and meets with growers and advisors.

### **DPR Native American Liaison**

The liaison serves as key staff liaison to Native Americans statewide.

## **V. Department of Toxic Substances Control (DTSC)**

### **Mandates for Public Involvement**

California Health and Safety Code, Chapter 6.5 (Hazardous Waste Control Act), Section 25199 – Specifies public involvement requirements for permitting a new, or significantly expanding an existing, hazardous waste facility including notification to the community, holding a public meeting, establishing a Local Assessment Committee, and appeal procedures.

Title 22, California Code of Regulations, Chapter 21, Sections 66271.7 et seq. – Specifies public involvement requirements for all hazardous waste permit decisions.

Title 22, California Code of Regulations, Section 66270.42 - Specifies public involvement requirements for modifications to hazardous waste permits.

Title 22, California Code of Regulations, Section 66265.112 – Specifies public involvement requirements for closure of hazardous waste facilities.

California Health and Safety Code, Chapter 6.8 (Hazardous Substances Account), Sections ~~25356 -25358.8~~ Specifies public involvement requirements for response actions including remedial action plans, removal action work plans, and their accompanying investigations. It also requires cleanups be based on the federal National Contingency Plan, which also has specific public participation requirements.

Resource Conservation and Recovery Act (RCRA) – Federal law regulating facilities that store, treat, or dispose of hazardous waste.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) – Federal law known as Federal Superfund which requires public involvement in cleanups of hazardous substances

Title 40, Code of Federal Regulations (40 CFR) – specifies public involvement requirements for both hazardous waste facility permitting and for response actions to cleanup hazardous substance releases.

DTSC must also comply with the California Environmental Quality Act, the California Public Records Act, and the Administrative Procedures Act

### **Formal Public Participation Processes**

Public participation processes are formally mandated by the above statutes and regulations in both the hazardous waste permitting and site cleanup. The following are formal mandates divided by program:

#### **Site Cleanup:**

Community assessment and planning – baseline community assessments, community interviews, formal public participation plans (also known as community relations plans) prior to the start of remedial investigation.

#### **Public involvement implementation activities –**

- Establish public repositories for site-related documents
- Provide access to all information pursuant to the California Public Records Act
- Provide fact sheets in non-technical language (and in languages other than English, as appropriate) regarding major elements of the site investigation and response actions
- Provide opportunities to attend public meetings concerning response actions
- Provide a schedule of activities for each site

- Provide public notice and hold public comment periods on decision documents
- Hold public meetings on all draft Remedial Action Plans (RAP)
- Hold public meetings, if interest warrants, on Removal Action Work Plans (RAW)
- Provide written response to public comments
- Provide written transcripts of all RAP meetings
- H&S Code also provides for the establishment of community advisory groups for any response action and specifies how DTSC supports and coordinates with them

### **Permitting:**

- For all new RCRA initial hazardous waste facility applications and for renewal applications with significant modifications, the facility must notify the public and hold a public meeting to answer questions and inform the public about proposed new activities prior to submission of application.
- DTSC must notify public upon receipt of any application for new or renewal RCRA application, make available for public review, and provide public contact person.
- A fact sheet must be prepared for every draft permit for a major HW facility and for any HW facility with wide public interest.
- Hold a public hearing on each draft permit or identify procedures for requesting a hearing if one is not planned initially. The hearing must be held in the population center nearest the facility
- Provide a written transcript or tape of the public hearing
- Make the administrative record available for public review for any permit, closure, post-closure permit and establish local repositories for key documents
- Public notice in a major daily newspaper of general circulation and to the facility mailing list that a draft permit is been prepared for public review and comment.
- Hold a 45 day public comment period on all draft permits, renewals, and post-closure permits
- Hold 30 day comments on all facility closure plans
- Issue formal Response to Comments with any final permit decision
- Any person who participated in the public hearing or submitted public comments on a draft permit may file an appeal of the final decision within 30 days
- For Class 2 and 3 permit modification requests, the facility must notify the public and hold a public meeting to explain the request. A 60-day comment period follows for all Class 2 and 3 modification requests.

### **Informal Public Participation Processes**

In addition to the legally mandated activities above, DTSC may elect to conduct additional public involvement activities based on the level of public interest and concern. These are identified in the DTSC Public Participation Policy and Procedures Manual.

1. Community profile
2. Fact sheets in addition to those mandated
3. Mailing list development

4. Community Survey and/or Public Participation Plan for higher interest permitting projects or removal actions
5. Workshops, open houses, small group meetings in homes, and public meetings and hearings in addition to those mandated
6. Support for Military Base Restoration Advisory Boards
7. Work Notification mailings and postings
8. Site certification notices to mailing list

### **Published Guidance**

DTSC has published guidance for staff as well as external stakeholders available on its Web site ([dtsc.ca.gov](http://dtsc.ca.gov)) called the Public Participation Policy and Procedures Manual (October 2001). The manual provides guidance on conducting public participation in permitting, site cleanup, and the CEQA processes. The final section is a "how to" guidance on public participation tasks and techniques.

### **Environmental Justice**

DTSC has a draft environmental justice policy on its Web site.

## **VI. State Water Resources Control Board (State Board) and Regional Water Quality Control Boards (Regional Boards)**

### **Mandates for Public Involvement**

Porter-Cologne Water Quality Control Act (California Water Code, Div. 7, Water Quality). Sections specific to public participation: Sect. 13167.5. Notice of Orders (See detailed requirements in Formal Public Participation Process below)

Health & Safety Code Chapter 6.8 Section 25356.1 for sites listed pursuant to Section 25356

Regional Water Board lead sites may be cleaned up under Chapter 6.8 in which case all applicable public participation requirements must be met. Sites in which the Regional Water Board is designated lead pursuant to the Site Designation Committee process found in H&S Code Section 25262, follow Chapter 6.8.

SB 1949 of 2002 requires the State Water Board to "undertake a review of the regional boards' public participation procedures. Upon completion of this review, the Water Boards would be required to report to the Legislature regarding their findings and include recommendations to improve regional board public participation processes." This is found in Porter-Cologne Chapter 4.7 Fairness and Due Process Code Section 13292. It also requires the State Water Board to provide training to Regional Water Board members to improve public participation procedures at the regional level.

### **Formal Public Participation Processes**

The State and Regional Board hearing process is the legally mandated process for public involvement defined in the Porter-Cologne Water Quality Control Act (Porter-Cologne) Section 13167.5. It is one basis for formal public hearings and requires a 30-day comment period. Public notice must be sent to any person requesting notice or posting on the State or Regional Board's Web site. Hearings may also be held by a hearing panel of three board members on waste discharge requirements, cease and desist orders, cleanup and abatement orders or penalties prior to final action by the full board. Pre-hearing conferences may also be held by board members or their designees. Water Quality Control Plan hearings require notification in a newspaper of general circulation.

Also, the Bagley-Keene Open Meeting Act specifies open meetings, public comment, and public notice:

- Any person may attend
- Any person attending an open and public meeting has the right to record it via video or audio
- Notice of the meeting on the internet at least 10 days prior and to any person requesting notice. Notice shall include specific agenda with description of items
- Provide an opportunity for members of the public to speak on each agenda item
- Water Boards specifically are to notify all city council/county supervisor clerks of meetings 10 days prior and all newspapers with 10,000 circulation in the board's jurisdiction 10 days prior

### **California Environmental Quality Act (CEQA)**

The State and Regional Water Boards have functional equivalency to CEQA in many of their decision-making processes. Documentation addressing functional equivalency must be prepared for discretionary decisions, but the accompanying public involvement in the CEQA process is not applicable.

### **California Public Records Act Requests**

The Water Board Web sites have a separate link which describes the procedures for members of the public to obtain or review Board records. There is no over-arching policy which is consistent from Board to Board. For example, the Los Angeles Regional Board only accepts requests records in writing by mail or fax. The Central Valley Board accepts requests in person, by mail, via email and by phone.

### **Informal Public Participation Processes**

The State and Regional Water Boards employ a variety of public participation tools in their various decision-making processes including fact sheets, notices, public workshops, stakeholder/public workgroups, mailing lists, and responding to inquiries. There is currently no over-arching public participation policy or guidance available. One is being developed by the State Water Board pursuant to a legal mandate in SB 1949.

Public Workshops and Workgroups – workshops and workgroups are utilized on the more high profile, complex, and controversial projects such as Water Basin Plans or amendments or some Total Maximum Daily Load (TMDL) determinations for allowable pollutants in surface water. The participants include regulated stakeholders as well as the general public and environmental or community groups. There are no written requirements for workshops/workgroups and no standardized guidance on how or when to conduct them.

### **Appeal Process**

The appeal process for Regional Water Board Decisions is by petitioning the State Water Board. After the administrative appeal procedure to the State Board is exhausted, the appellant may file with the courts.

### **Published Guidance**

Currently there is no published guidance for staff on how to conduct public participation. SB 1949 (Sect 13292 of Porter-Cologne) requires the State Water Board to develop a public participation guidance manual for the Regional Water Boards. The State Water Board is also developing a training program for staff on public participation. A Public Involvement Needs Assessment is in final draft. It includes recommendations on how to improve public involvement in State and Regional Water Board decisions. A number of recommendations address the development of a public participation manual.

### **Environmental Justice**

The State Water Board is developing an environmental justice policy. The environmental justice program is described on their Web site.

### **Web site**

The Water Boards' Web sites (state and regional) are one of the best sources for the public to understand and become involved in Water Board actions.

## **VII. California Integrated Waste Management Board**

### **Mandates for Public Involvement**

Government Code 11346 outlines the general public process for rulemaking.

### **Formal Public Involvement Processes**

#### **Board Process**

Public Resources Code Section 40500 outlines the basic duties of the Board including holding public hearings for emergency regulations. The following is a list of public outreach activities undertaken at Board meetings:

- All meetings are transcribed by a court reporter
- Transcripts of meetings are available two weeks after the meeting date
- Transcripts are not translated into other languages
- Audio broadcasts of meetings are available on Waste Board Web site
- Sign-in sheet and comment forms are provided at all meetings

- Standard mailing list and e-mail list is used to inform the public
- Meeting agenda packets are provided on CD

### **Informal Public Involvement Processes**

#### **Ombudsman Program**

The California Integrated Waste Management Board Ombudsman helps clarify solid waste facility permit requirements and resolve regulatory conflicts.

#### **Office of Local Assistance**

The Office provides direct planning and implementation assistance through response to inquiries, local meeting attendance, instructional workshops, and development of guidance documents, as well as ongoing tracking and monitoring of local government progress in plan implementation.

### **Published Guidance**

#### **Communication Strategy and Outreach Plan 2003-2004**

This document is designed to “assist the Board in achieving newly defined strategic goals through effective communication ...” It identifies several recommendations including public outreach and participation.

#### **Waste Facilities, Environmental Justice, and Community Participation**

This is a presentation developed by the Center for Justice, Tolerance and Community at UC Santa Cruz. It makes several recommendations calling for increased public participation in the Board processes.

#### **Siting Household Hazardous Waste Facilities in Low-Income Minority Communities**

This presentation, developed by the Consensus Planning Group, Inc., outlines a public outreach process very similar to that of DTSC’s permitting program.

## **VIII. California Air Resources Board**

### **Mandates for Public Involvement**

#### **Government Code Section 11346.45 – Public Discussions of Proposed Regulations**

This section of the California Government Code requires agencies to involve parties who would be subject to proposed regulations in public discussions regarding those proposed regulations.

#### **Health and Safety Code Section 39665 - Toxic Air Contaminant Air Toxic Control Measure Development**

This section requires the ARB’s Executive Office, with the participation of local air pollution control districts, and in consultation with affected air pollution sources, to prepare the needs assessment report for toxic air contaminants identified by the ARB.

## **Health and Safety Code Section 43013 – Motor Vehicle Fuel Specifications**

Prior to adopting any amending any regulation relating to motor vehicle fuel specifications, the ARB must consult with public or private entities that would be significantly impacted by the regulation.

### **Public Involvement Processes**

All program areas of the ARB are involved in the public outreach process. To accomplish this, the ARB solicits input from the public, makes information more accessible, and educates the public on the public processes used to make State and local air quality decisions. In partnership with local air districts, the ARB provides the public with many avenues to participate in the decision-making process.

Some of the specific actions include the following:

- Hold public meetings at times and in places that encourage public participation and invite stakeholders affected by ARB programs, policies and regulations.
- Form advisory committees with interested parties.
- Make air-quality and regulatory information available to the public in easily understood and useful formats, including fact sheets, mailings, brochures, and web pages, in English and other languages.
- Hold public meetings to update community residents on the ARB's programs and regulations, and on the results of any special air monitoring programs conducted in their neighborhoods.
- Allow, encourage, and promote community access to the best available information in ARB databases on air quality, air pollution sources, and other sources of information.
- Assess the need for translation services at public meetings.
- Distribute information in multiple languages, as needed, on how to contact the Chairman's Office of Community Health and our Public Information Office, to provide information and assistance regarding the ARB's programs, including how to participate in public processes.

### **Formal Public Participation Processes**

#### **ARB Regulatory Process**

The ARB is a regulatory State agency with regulatory authority over mobile sources, sources of toxic air pollutants, consumer products, and fuels. All ARB regulations go through a process that provides for multiple opportunities for the public to participate and comment. In order to make sure each proposed rule goes through an open public review process, State agencies are subject to the Administrative Procedures Act (Government Code 11340) and to the regulations adopted by the Office of Administrative Law (OAL). This process ensures that State regulations are clear and consistent, and that the public is provided with ample opportunity to participate in the process.

The regulatory process usually begins with ARB staff developing draft proposed regulations. Ideas for proposed regulations come from the public, government and

industry. During the development phase, ARB staff identifies and contacts various stakeholders and invites them to participate in one or more public workshops on the proposed regulation. These workshops, which are held at times and locations that are convenient for the stakeholders, provide the public with opportunities to express their ideas and concerns early in the process and for ARB staff to consider and address written and oral comments. Based on comments from the public, regulations generally go through multiple revisions and changes before they are presented to the Board.

Following a formal 45-day public comment period, a regulation is presented to the Board at a public hearing. The Board discusses the proposed regulation, the written comments from the public received during the public comment period, and additional testimony from the public at the hearing. All public testimony is recorded, and the transcripts of the public hearing are entered into the public record. If the Board requests additional revisions to the regulation at the hearing, the revised regulation is subject to an additional 15-day comment period covering the revisions made at the Board meeting.

### **Informal Public Participation Processes**

#### **Chairman's Office**

The Ombudsman's Office is part of the Chairman's office that provides assistance to small and large businesses, trade associations, and individual community members regarding all aspects of the regulatory process. The Ombudsman's Office encourages open communication to resolve complaints and conflicts.

#### **Office of Communications**

The Office of Communications is part of the Chairman's office and is responsible for improving air quality by promoting the programs of the Air Resources Board through public information, educational speakers, bureaus and publications. These responsibilities are in support of the statewide air pollution control program.

#### **Informal Stakeholder Groups**

ARB staff maintains ongoing contacts with a wide variety of stakeholder groups to promote public participation in the ARB's programs, policies, and regulations. While these contacts are not required by law, these interactions with the public are an essential part of the ARB's policy and regulatory development process. Some of the stakeholder groups that are in routine contact with ARB staff include:

- Community Groups
- Environmental Groups
- Environmental Justice Groups
- Local Air Quality Agencies
- Trade Organizations
- Motor Vehicle Manufacturers
- Consumer Product Manufacturers
- Petroleum Refiners

- Agriculture Producers

### **Informal Activities to Promote Public Participation**

ARB staff also performs a variety of other activities to promote public participation which include:

- Developing fact sheets and informational web sites.
- Compiling stakeholder contact lists and databases.
- Conducting workshops, open houses, and small group meetings in homes and schools.
- Promoting wider public participation by making use of video conferencing, teleconferencing, and broadcasting on the Internet.

### **Public Participation Publications**

#### **Policies and Actions for Environmental Justice**

The Board approved the Environmental Justice Policies and Actions (Policies) on December 13, 2001, to establish a framework for incorporating environmental justice into the ARB's programs consistent with the directives of State law. The second policy states that it is "ARB's policy to strengthen our outreach and education efforts in all communities, so that all Californians can fully participate in our public process and share in the air quality benefits of our programs". These Policies apply to all communities in California, but recognize that environmental justice issues have been raised more in the context of low-income and minority communities.

#### **Let's Clear the Air, a Public Participation Guide to Air Quality Decision-Making**

This is a citizen guide designed to provide interested parties with information on how to interact with the ARB, and local districts in various circumstances including emergencies, regulatory processes, and public meetings.

# CITATIONS FOR PUBLIC PARTICIPATION REQUIREMENTS

## Listed by Type of Cleanup Action

- All Sites (regardless of type of cleanup, if any)
- Remedial Responses
  - RI/FS
  - RAP
  - Proposed Plan
  - ROD
  - Remedial Design
- Removal Actions
  - All removal actions
  - RAW
  - Time-Critical
  - Time-Critical Lasting Over 120 Days
  - Non-Time-Critical
- CEQA

### All Listed Sites Regardless of Eventual Cleanup Action, if Any

*Includes sites at the beginning of the investigation phase where the type of cleanup action, if any, is not yet known*

All citations are assumed to be for required activities unless specifically stated. Those that are not required by state or federal law are noted by an asterisk and by a description such as “based on interest”

#### **General**

Must provide opportunities for public involvement at key stages

HSC 25358.7(c)(5)

Timing: Health risk assessment; preliminary assessment; site inspection; remedial investigation; feasibility study

#### **Baseline Community Survey**

*All listed sites, and VCAs citing this section of the HSC*

HSC 25358.7(b)

Timing: “as soon as possible after taking an action to investigate or remediate” a site

#### **Public Participation Workplan**

*All listed sites*

HSC 25358.7(b)

Timing: Not specified

DTSC policy: Complete prior to beginning the RI fieldwork

#### **\*Fact Sheets—All Listed Sites**

HSC 25358.7(c)(2)— **based on interest**

Timing: “...regarding plans to conduct the major elements of the site investigation and response actions” (e.g., RI, FS, Health Risk Assessment, etc.)

DTSC policy: Fact sheet required for RAP/Proposed Plan; recommended before the Remedial Investigation (especially for high interest sites); for all high interest sites

#### **Public Notices**

*DTSC policy: Public notices are always required to announce a public comment period and/or public meeting.*

## TIME-CRITICAL REMOVAL ACTIONS

### **Public Notices**

*DTSC policy: Public notices are always required to announce a public comment period and/or public meeting. In addition, there are specific stages in the removal action process that require public notices, as listed below.*

### **\*Fact Sheets—All Listed Sites**

HSC 25358.7(c)(2)— **based on interest**

Timing: "...regarding plans to conduct the major elements of the site investigation and response actions" (e.g., RI, FS, Health Risk Assessment, etc.)

DTSC policy: Fact sheet required for RAP/Proposed Plan; recommended before the Remedial Investigation (especially for high interest sites); for all high interest sites

**Baseline Community Survey—All listed sites, and VCAs citing this section of HSC**  
HSC 25358.7(b)

Timing: "as soon as possible after taking an action to investigate or remediate" a site

### **Public Participation Workplan—All Listed Sites**

HSC 25358.7(b)

Timing: Not specified

DTSC policy: Complete prior to beginning the RI fieldwork

### **Designate Spokesperson—All Removal Actions**

NCP 300.415(m)(1)

Timing: not specified in the regulation

DTSC policy: DTSC media contact is the PIO, technical contact is the PM, community outreach is the PPS

### **Establish and Public Notice The AR—Time-Critical Removal Actions**

SARA 113(k); NCP 300.820(b)(1); NCP 300.415(m)(2)(i)

Timing: No later than 60 calendar days after the initiation of on-site removal activity

### **\*Public Comment Period—Time-Critical Removal Actions**

NCP 300.415(m)(2)(ii)—Public comment period on the documents in the AR (there is no single document such as a Draft RAW or Draft EE/CA) "**as appropriate**"

Timing: Beginning at the time the AR is made available to the public

### **Response to Comments—Time-Critical Removal Actions**

NCP 300.415(m)(2)(iii)

Timing: Not specified

## TIME-CRITICAL REMOVAL ACTIONS LASTING OVER 120 DAYS

### **Public Notices**

*DTSC policy: Public notices are always required to announce a public comment period and/or public meeting. In addition, there are specific stages in the removal action process that require public notices, as listed below.*

### **\*Fact Sheets—All Listed Sites**

HSC 25358.7(c)(2)— **based on interest**

Timing: "...regarding plans to conduct the major elements of the site investigation and response actions" (e.g., RI, FS, Health Risk Assessment, etc.)

DTSC policy: Fact sheet required for RAP/Proposed Plan; recommended before the Remedial Investigation (especially for high interest sites); for all high interest sites

### **Baseline Community Survey—All listed sites, and VCAs citing this section of HSC**

HSC 25358.7(b)

Timing: "as soon as possible after taking an action to investigate or remediate" a site

### **Public Participation Workplan—All Listed Sites**

HSC 25358.7(b)

Timing: Not specified

DTSC policy: Complete prior to beginning the RI fieldwork

### **Designate Spokesperson—All Removal Actions**

NCP 300.415(m)(1)

Timing: not specified in the regulation

DTSC policy: DTSC media contact is the PIO, technical contact is the PM, community outreach is the PPS

### **Establish And Public Notice The AR—All Removal Actions**

SARA 113(k); NCP 300.820(b)(1)

Timing: No later than 60 days after initiation of on-site removal activity

### **Establish IR—Time-Critical Removal Actions Lasting Over 120 days**

NCP 300.415(m)(3)(iii)

Timing: By the end of the 120-day period of removal activity

### **Community Interviews—Time-Critical Removal Actions Lasting Over 120 Days**

NCP 300.415(m)(3)(i)

Timing: By the end of the 120-day period of removal activity

### **Community Relations Plan—Time-Critical Removal Actions Lasting Over 120 Days**

NCP 300.415(m)(3)(ii)

Timing: By the end of the 120-day period of removal activity

## NON-TIME-CRITICAL REMOVAL ACTIONS

### **Public Notices**

*DTSC policy: Public notices are always required to announce a public comment period and/or public meeting. In addition, there are specific stages in the removal action process that require public notices, as listed below.*

### **\*Fact Sheets—All Listed Sites**

HSC 25358.7(c)(2)— **based on interest**

Timing: "...regarding plans to conduct the major elements of the site investigation and response actions" (e.g., RI, FS, Health Risk Assessment, etc.)

DTSC policy: Fact sheet required for RAP/Proposed Plan; recommended before the Remedial Investigation (especially for high interest sites); for all high interest sites

### **Baseline Community Survey—All listed sites, and VCAs citing this section of HSC**

HSC 25358.7(b)

Timing: "as soon as possible after taking an action to investigate or remediate" a site

### **Public Participation Workplan—All Listed Sites**

HSC 25358.7(b)

Timing: Not specified

DTSC policy: Complete prior to beginning the RI fieldwork

### **Designate Spokesperson—All Removal Actions**

NCP 300.415(m)(1)

Timing: not specified in the regulation

DTSC policy: DTSC media contact is the PIO, technical contact is the PM, community outreach is the PPS

### **Establish AR and IR—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4)(i)

Timing: Establish IR and AR no later than when the EE/CA Approval Memo is signed

### **Public Notice the AR—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4); NCP 300.820(a)(1)

Timing: At the time the EE/CA goes out for public review and comment

### **Community Interviews—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4)(i)

Timing: Before the completion of the EE/CA

### **Community Relations Plan—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4)(i)

Timing: Before the completion of the EE/CA

**NON-TIME-CRITICAL REMOVAL ACTIONS (continued)**

**Public Notice the EE/CA—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4)(ii) (describes site, proposed action, comment period, and meeting if there is one)

Timing: When the Draft EE/CA is prepared

**Public Comment Period for the Draft EE/CA—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4)(iii)

Timing: When the Draft EE/CA is prepared

**Response to Comments—Non-Time-Critical Removal Actions**

NCP 300.415(m)(4)(iv)

Timing: Not specified

## CEQA (Negative Declaration, Mitigated Negative Declaration, EIR)

*(All citations are assumed to be for required activities unless specifically stated. Those that are not required are noted by an asterisk and by a description such as "based on interest")*

### **Public Notice**

Title 14, CCR Sections 15072 and 15087

Timing: When the Draft CEQA document has been prepared. DTSC policy is to do only one public notice that combines the CEQA information with the notice of the cleanup action (RAP, RAW, etc.).

NOTE: The regulations require notification by one of three methods: public notice, direct mail, and posting at the site. DTSC policy requires all three methods to be used.

### **\*Public Comment Period**

Required by DTSC policy

Timing: 30-day review period after the draft document has been prepared

NOTE: DTSC policy is to run the CEQA public comment period concurrently with the comment period for the cleanup action (RAP, RAW, etc.)

### **Direct Mail Notification**

Title 14, CCR Sections 15072 and 15087

Timing: When the Draft CEQA document has been prepared

NOTE: The regulations require notification by one of three methods: public notice, direct mail, and posting at the site. DTSC policy requires all three methods to be used.

### **Response to Comments**

Title 14, CCR Section 15074

Timing: Not specified

## NOTICE OF PREPARATION OF AN EIR

### **\*Direct Mail Notification**

Required by DTSC policy

Timing: When the Notice of Preparation is sent to the OPR, a copy is sent to the mandatory mailing list.

**Remedial Responses (RI, RS, RAI) and Removal Actions (Including RAWs)  
Public Participation Requirements**

Public Participation Activities	Prior to starting field investigation (for all "listed sites")	Commencement of field investigation or site investigation	RAI/ Removal Action Workplan	CEQQA Field Agency Activities (last 30 days)	CEQQA Critical Facility (last 120 days)	CEQQA Critical Facility (last more than 120 days)	CEQQA N-Removals EREC	Draft RAI/ Removal Plan	Final RAI/ Removal Decision	Remedial Design	CEQQA document (except for Notice of Exemption)
Mailing List - established and maintained by DTSC (for OMI, maintained by RP)	☆	(☆)	(☆)	☆	☆	☆	☆	(☆)	(☆)	(☆)	☆
Community Survey	X	(X)	X	X <sup>2</sup>	X <sup>2</sup>	X <sup>2</sup>	X	(X)	(X)	(X)	
Community Profile <sup>1</sup>			X				X		(X)	(X)	
Community Relations Plan Public Participation Plan/Workplan Fact Sheet	X	(X)	(X)	X <sup>2</sup>	X <sup>2</sup>	X <sup>2</sup>	X	(X)	(X)	X (update)	
Public Notice (A joint public notice is prepared for the RAW/RAI and CEQA documents)			X		X <sup>1</sup>	X	X	X	X		X
30 Day Public Comment Period (CEQA and RAW/RAI concurrent comment period is recommended)			✓		X <sup>1</sup>	X	X	X			☆
Response to Comments			✓		X	X	X	X	X		X
Public Meeting		✓	✓		✓	✓	✓	X	X	✓	✓
Designate Agency Spokesperson		☆	X	X	X	X	X	(☆)	(☆)	(☆)	
Establish Information Repository	X	X	(X)			X	X	(X)	(X)	(X)	
Establish and public notice the Administrative Record	X	X	X	X (summarize project)	X	X	X	(X)	(X)	(X)	

X Required by law

☆ Required by DTSC policy

✓ Recommended by DTSC policy, or based on level of interest

1 The Community Profile is always part of the RAI/RAI. For RAWs and all VCAs, it is submitted as a separate document in the early stages of the project. When folded into the RAI/RAI when that document is prepared.

X<sup>1</sup> If it is a "listed site" or is being addressed under H&SC Section 25358.7 (VCAs)

( ) Activity applies to this type of project, but is done at an earlier stage of the process

**Receive AB 389 Application**

# AB 389 PROCESS

**Eligibility Evaluation**  
Work with Proponent to Confirm Eligibility  
Evaluate All Appropriate Inquiries

**Negotiate Agreement**  
Notify appropriate agencies, including host jurisdiction

**Agreement Execution**  
Immunities Attach  
Includes scope of work, schedule and oversight cost estimate

**Determine if Expedited Action Required**

- If required, prepare workplan
- Implement upon approval
- Prepare implementation report

**Site Assessment Plan**  
Meets requirements in HSC section 25395.94  
Upon approval, notify appropriate persons, including any public water systems relying on impacted groundwater for public drinking water purposes.

**No Further Action Required**

**Land Use Controls Required**  
30-day public review  
Execute and record deed restriction

**Appropriate Care Requirement Fulfilled**

**Response Plan Required**  
Meets requirements in HSC section 25395.96  
Address DTSC's CEQA obligations  
30-day public comment period, fact sheet, public notice, response to comments. Public meeting upon request. Notify appropriate persons, including host jurisdiction upon approval of Response Plan  
Implement Response Plan and prepare Report

## **Attachment D**

### **EnviroStor Suggestions on Public Participation Workload Tracking and Performance Measures**

***By adding the following Public Participation Activities/Tasks/Documents in the dropdown menu for Envirostor would help to facilitate workload tracking and tallying performance measures:***

- Work Notices – Add line item on how many are sent out in hardcopy or by email or add comment line.
- Conference Calls - Internal/External/Team indication or add comment line.
- Community Survey Letter / Form - Add line item on how many are sent out in hardcopy or by email or comment line.
- Community Interviews - Add line item on how many are conducted or add comment line. Can we also upload interview notes?
- Meeting / Open House / Briefing – Comment line to indicate with whom, where and when. Also ability to upload any meeting handouts or presentation from event. Or any flyers or posters to announce event.
- Meeting Dry Runs held with Project Team – When, how many and what was prepped?
- Mailing lists – Ability to upload all lists and filed by dates.
- Access Agreements if obtained by PPS – Ability to upload the agreement.
- Site Visit – When and where?
- Response to Comments/ Responsiveness Summary

#### ***Additional suggestions for further project site-assessment:***

- Add EJ or Tribal check boxes to indicate if the project site is located in/or near Tribal land or an Environmental Justice area.
- Add links if training on EJ or Tribal is available (i.e. presentations, videos) to allow project team to be quickly trained.
- Add site/street photos (helps to visualize site if restricted from conducting site visits).