

**DEPARTMENT OF TOXIC SUBSTANCES CONTROL
POLICY AND PROCEDURE**

POLICY AND PROCEDURE: E0-06-002-PP

TITLE: Posting of Enforcement Documents to the Department of Toxic Substances Control Website

AFFECTED PROGRAMS: **Hazardous Waste Management Program; Site Mitigation and Brownfields Reuse Program; Office of Legal Counsel and Criminal Investigations; Office of External Affairs; Office of Environmental Information and Management**

EFFECTIVE DATE: February 28, 2006

EXPIRATION DATE: N/A

SUPERSEDES: Policy and Procedure EO-02-001-PP: "Posting of Enforcement Documents to the Department of Toxic Substances Control Website"

I. PURPOSE

This document establishes the policy and procedures to follow for posting enforcement response documents to the Department of Toxic Substances Control (DTSC) website to meet statutory requirements.

II. AUTHORITY AND REFERENCE

Assembly Bill 2282 (Ch. 783, stats. 2000) placed new requirements on DTSC regarding Web posting of final enforcement orders. This law affects DTSC's two major hazardous waste regulatory and cleanup programs: the Hazardous Waste Management Program (HWMP) and the Site Mitigation and Brownfields and Reuse Program (SMBRP). This law applies to all of California Environmental Protection Agency's (Cal/EPA's) boards, departments, and office. Cal/EPA is required to oversee the implementation of the statutory provision.

STATUTORY BASIS

Assembly Bill 2282 (Ch. 783, stats. 2000) effective April 1, 2001, added section 6253.8 to the Government Code. This section requires every final enforcement order issued by DTSC to be displayed on its website, if the final enforcement order is a public record that is not exempt from disclosure. Government Code section 6253.8, subsection (c) (1), specifies that an enforcement order is final when the time for judicial review has expired on or after January 1, 2001, or when all means of judicial review have been exhausted on or after January 1, 2001. An order posted pursuant to Government Code section 6253.8 must be posted for a minimum of one year after it has become final.

III. POLICY STATEMENT

It is DTSC's policy to consistently and expeditiously involve and inform the public, local agencies and communities of its decision making process. As such, in addition to posting final enforcement orders, it is DTSC's policy to post all enforcement response documents that show and/or record the status of an action (see list below).

DTSC will post all enforcement response documents when they are issued for a minimum of three years. All enforcement documents will remain posted for three years after the order becomes final. The posted documents may be removed from DTSC's website when the final enforcement document has been posted for three years.

Consistent with DTSC's policy, the following enforcement response documents that must be posted include, but are not limited to:

- Accusation for Revocation
- Consent Agreement
- Consent Order
- Corrective Action Order
- Enforcement Order
- Enforcement Order for Corrective Action
- Fence and Post Order
- Imminent and/or Substantial Endangerment Order
- Operation and Maintenance Agreement
- Order for Temporary Suspension Pending Hearing
- Public Notices
- Press Releases
- Remedial Action Order
- Stipulation and Order
- Notices of Appeal
- Notices of Dismissal
- Notices that an enforcement order has become final
- Hearing decisions
- Final judicial orders for administrative cases appealed to superior court

IV. PROCEDURES AND GUIDELINES:

This document should be used in conjunction with DTSC's Enforcement Response Policy and Procedure (EO-02-003-PP). DTSC's Policy and Procedure # E0-02-003-PP details the selection and execution of the enforcement response actions that can be pursued by DTSC's HWMP. For SMBRP project managers, the Policy and Procedure #EO-93-009-PP provides guidance on issuing Imminent and/or Substantial Endangerment Determinations and Consent Orders, and Policy and Procedure #OPP 87-1 provides guidance for Remedial Action Orders.

Within 30 days after an enforcement response document is issued to the respondent, a copy of that document will be posted to DTSC's website.

The enforcement documents must be approved and signed, and meet DTSC's posting criteria¹. The documents that will be posted will typically not include signatures but will include the name of the signatory, wording such as "original signed by," and the date the document was signed by each party. In cases where an enforcement document is superseded by a subsequent document, for example, an order is superseded by a consent agreement, the original enforcement order will be accessible only by viewing the more current document; the original enforcement order will be clearly marked to indicate its superseded status. Program staff and program Web contributors are responsible for complying with this requirement.

V. ROLES and RESPONSIBILITIES

This section outlines the general roles and responsibilities of DTSC regions, branches, offices and staff.

Regions

Staff (i.e. project manager, inspector, office technicians and/or other designee) will submit the enforcement documents for review and approval. Upon authorization by the appropriate branch chief, the project manager or appropriate staff will through email, send the approved documents to the designated person(s) for posting on the DTSC website.

All submittals for posting to the DTSC website must include a summary page with the name of the respondent, latest signature date, type of order, contact person(s) (i.e. names of project manager, inspector, and legal staff working on case).

Legal

The Office of Legal Counsel will provide legal assistance in determining if a specific enforcement document has become final.

¹ Because of rapid technological advances, posting criteria is likely to change frequently. Prior to submitting a document for posting, verify that the information being submitted is consistent with the most current posting criteria. As of the date of this revision, the Website Standards and Procedures are located on the U drive at U:\OEA\Web Site\Standards and Procedures.

Headquarters/Office of External Affairs

The HWMP and SMBRP website contributors will follow the Office of External Affairs written website posting procedures to post enforcement documents to the DTSC website. For fact sheets or press releases relating to enforcement actions, the appropriate unit within the Office of External Affairs will handle posting those documents to the DTSC website.

CONTACT:

Hazardous Waste Management Program
Statewide Compliance Division
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806
(916) 322-0349 (916) 324-7193

OR Hortensia Muniz
(916) 324-1818
Hmuniz@dtsc.ca.gov

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Date

//original signed by//
Maureen F. Gorsen
Director