PHASE I ENVIRONMENTAL SITE ASSESSMENTS (PROPOSED NEW AND EXPANDING SCHOOL SITES)
Department Reference Number R-2004-01
TEXT OF EMERGENCY REGULATIONS

Amend the California Code of Regulations, title 22, division 4.5, chapter 51.5 to read:

Chapter 51.5 ~~Phase I Environmental Site Assessments (Schools)~~ Assessment of School Sites

Article 1. Phase I Environmental Site Assessments (Proposed New and Expanding School Sites)

Amend §69100 to read:

§ 69100. Purpose.

The purpose of these regulations is to establish guidelines for a Phase I Environmental Site Assessment (Phase I) conducted prior to acquisition of a school site, or where the school district owns or leases a school site, prior to the construction of a project (hereinafter referred to as "Proposed School Site") under title 1, division 1, part 10.5, chapter 1 of the Education Code (commencing with section 17210). ~~These regulations~~This article establishes guidelines for completion of a Phase I and a Phase I Addendum. ~~The Phase I Addendum includes p~~Procedures are included for sampling and submitting~~ssion of~~ analytical ~~analysis~~ results for lead in soil from lead-based paint, organochlorine pesticides in soil from termiticide application, and/or polychlorinated biphenyls in soil from electrical transformers in Phase I Addendum reports to the Department of Toxic Substances Control.

Note: Authority cited: Section 58012, Health and Safety Code; and Section 17210(g), Education Code. Reference: Sections 17210(g) and 17213.1, Education Code.

Amend §69101 to read:

§ 69101. Applicability.

This article~~chapter~~ applies to the preparation of a Phase I pursuant to section 17213.1 of the Education Code.

Note: Authority cited: Section 58012, Health and Safety Code; and Section 17210(g), Education Code. Reference: Sections 17210(g) and 17213.1, Education Code.

Amend §69102 to read:

§ 69102. Definitions.

The definitions set forth in this section govern interpretation of this article~~chapter~~. Unless the context requires otherwise and except as provided in this section, definitions contained in title 1, division 1, part 10.5, chapter 1 of the Education Code (commencing with section 17210) or in division 20, chapter 6.8 of the Health and Safety Code (commencing with section 25300) apply to the terms used in this article~~chapter~~. If a definition appears in both title 1, division 1, part 10.5, chapter 1 of the Education Code and in division 20, chapter 6.8 of the Health and Safety Code, the definition in the Education Code governs interpretation of this article~~chapter~~.

(a) "Phase I Addendum" means a report containing results of sampling and analysis, limited to results of lead in soil from lead-based paint, ~~and/or~~polychlorinated biphenyls in soil from electrical transformers, and/or organochlorine pesticides in soil from termiticide application that is submitted to the Department along with or after the submittal of the Phase I.

(b) "Department" means the Department of Toxic Substances Control.

(c) "OCPs" means organochlorine pesticides from termiticide application only, for purposes of this article.

(~~c~~d) "Phase I" means a Phase I Environmental Site Assessment.

(~~d~~e) "PCBs" means polychlorinated biphenyls.

(~~e~~f) "USEPA Test Methods" means "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" as referenced in section 69103, subsection (a)(2).

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Amend §69103 to read:

§ 69103. References.

(a) When used in this article~~chapter~~, the following publications are incorporated by reference:

(1) "American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process," ASTM Standard E-1527-05, approved November 1, 2005~~, adopted May 10, 2000~~; available from American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959, (610) 832-9585; website http://www.astm.org

(2) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 Third Edition, November 1986, as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), IIB (January, 1995), III (December, 1996), IIIA (April, 1998), IVA (January, 1998) and IVB (November, 2000); available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, (202) 512-1800; website ~~http://www.epa.gov/SW-846/main.htm.~~ http://www.epa.gov/epaoswer/hazwaste/test/sw846.htm

(3) "USEPA Contract Laboratory Program National Functional Guidelines for Organic Data Review," EPA 540/R-94/012; February 1994, available from National Technical Information Service (NTIS), United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487-4650~~.~~; website http://www.epa.gov/superfund/programs/clp/guidance.htm

(4) "USEPA Contract Laboratory Program National Functional Guidelines for Inorganic Data Review," EPA 540/R-94/013; February 1994, available from the United States Environmental Protection Agency website http://www.epa.gov/superfund/programs/clp/guidance.htm.~~National Technical Information Service (NTIS); United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487-4650.~~

(5) "Guidance on Environmental Data Verification and Data Validation," EPAQA/G-8; Peer Review Draft, June 2001, available from United States Environmental Protection Agency, Quality Staff (2811 R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; (202) 564-6830; website http://www.epa.gov/quality/qa_docs.html~~http://www.epa.gov/Region10/offices/oea/epaqag8.pdf~~

Note: Authority cited: Section 58012, Health and Safety Code; and Section 17210(g), Education Code. Reference: Sections 17210(g) and 17213.1, Education Code.

Amend §69104 to read:

§ 69104. Preparation of a Phase I.

a) A Phase I shall be prepared for the Proposed School Site pursuant to this article and section 17213.1, subdivision (a), of the Education Code. The Phase I shall~~may~~ be submitted to the Department for review and approval.

(b) The Phase I shall be conducted in accordance with the ~~American Society for Testing and Materials (~~ASTM~~)~~ Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process cited in section 69103, subsection (a)(1).

(c) The Phase I may contain results of sampling as follows: lead in soils from lead-based paint~~,~~ (performed in accordance with the sampling protocols described in section 69105 of these regulations), ~~and/or~~ PCBs in soil from electrical transformers (performed in accordance with sampling protocols described in section 69107), and OCPs in soil from termiticide application (performed in accordance with the sampling protocol described in section 69106 of these regulations). If a Phase I has already been completed and submitted to the Department, these sampling results may be submitted as a Phase I Addendum.

(d) The Phase I shall include the following:

(1) a site map describing the boundary of the project and the current development on the property,

(2) a description of the intended use of the property that includes whether the school district intends to use all or a portion of the parcel, the type of school proposed, and the disposition of any existing structures, and

(3) past and existing land uses, including but not limited to, easements; adjacent properties; former governmental use; residential, industrial, or commercial uses.

(e) If a Phase I Addendum is submitted more than 180 days subsequent to the date that the Phase I was conducted, or if a Phase I was conducted for the Proposed School Site more than 180 days prior to its submittal to the Department, information to verify current site conditions shall be submitted to the Department. Verification activities include, but are not limited to, the following: (1) a site reconnaissance visit; 2) any changes to site conditions or site boundaries; and 3) updated review of environmental records, as described in the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process cited in section 69103, subsection (a)(1).

(f) The Phase I shall identify and evaluate all sources for the potential release or presence of hazardous material on the Proposed School Site, including, but not limited to, all of the following:

(1) agricultural use,

(2) mines,

(3) surface drainage pathways,

(4) fill material,
(5) debris,
(6) illegal drug manufacturing, and
(7) naturally occurring hazardous materials.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Amend § 69106 to read:

§ 69106. Sampling for OCPs in Soil.

(a) The school district may choose to submit sampling data for OCPs in soil in one of the following reports: 1) the Phase I Addendum; or 2) the Preliminary Endangerment Assessment, in accordance with subsections (b) through (h) below:

(b) *OCP Evaluation.* Unless the Department determines that OCPs in soil are not a concern based on review of the Phase I, soil samples shall be collected for any structures on the Proposed School Site with wood components constructed prior to January 1, 1989, to evaluate possible OCPs in soil.

(c) Prior to demolition of structures or removal of foundations or slabs, or movement of soil on the Proposed School Site, pre-demolition sampling for OCPs in soil shall be implemented in accordance with the following protocols:

(1) *Sample collection.* Surface (zero to six inches) and subsurface (two to three feet) soil samples shall be collected from around the perimeter of the structures, in areas with the highest potential for OCPs (such as near footings). If the structures have raised floors or porches, surface soil samples (zero to six inches) shall be collected beneath these areas. If concrete or asphalt borders a structure, the Department shall require collection of surface (zero to six inches) and subsurface (two to three feet) soil samples underneath existing paved areas. The Department shall be consulted to determine the number and location of samples necessary to adequately evaluate OCPs in soil at the Proposed School Site.

(2) *Additional sample collection*. If OCPs are detected in soil samples, the Department may require additional step-out samples on the Proposed School Site to determine the horizontal and vertical extent of contamination.

(d) If demolition of structures has occurred, but foundations or slabs are present and the site has not been graded, post-demolition sampling for OCPs in soil shall be implemented in accordance with the following protocols:

(1) *Sample collection.* Surface (zero to six inches) and subsurface (two to three feet) soil samples shall be collected from two sets of sampling locations around the perimeter of the structures. The first set should be collected in areas with the highest potential for OCPs (such as near footings). The second set should be collected at the extent of soil disturbed by removal of demolition debris. If soil is exposed within the footprints of former structures, surface (zero to six inches) and subsurface (two to three feet) soil samples shall be collected within the footprints. If concrete or asphalt borders a structure, the Department shall require collection of surface (zero to six inches) and subsurface (two to three feet) soil samples underneath existing paved areas. The Department shall be consulted to determine the number and location of samples necessary to adequately evaluate OCPs in soil at the Proposed School Site.

(2) *Additional sample collection*. If OCPs are detected in soil samples, the Department may require additional step-out samples on the Proposed School Site to

determine the horizontal and vertical extent of contamination.

(e) If demolition of structures, removal of foundations or slabs, or movement of soil on the Proposed School Site has occurred, post-demolition sampling for OCPs in soil shall be implemented in accordance with the following protocols:

(1) *Sample collection.* The Proposed School Site shall be divided into grids as determined in consultation with the Department, and surface (zero to six inches) and subsurface (two to three feet) soil samples shall be collected from the center of each grid.

(2) *Additional sample collection*. If OCPs are detected in soil samples, the Department may require additional step-out samples on the Proposed School Site to determine the horizontal and vertical extent of contamination.

(f) *Sample Analysis*. Soil samples shall be analyzed for OCPs using USEPA Test Methods.

(g) *Laboratory Quality Control.* Quality Control *(*QC) procedures specified in USEPA Test Methods shall be followed. The data shall be qualified in accordance with the National Functional Guidelines cited in section 69103, subsection (a)(3) and USEPA guidance cited in section 69103, subsection (a)(5).

(h) *Data Submission*. Data identifying concentrations of OCPs detected in soil samples collected from the Proposed School Site shall be submitted to the Department.

Note: Authority cited: Section 58012, Health and Safety Code; and Section 17210(g), Education Code. Reference: Sections 17210(g) and 17213.1, Education Code.

Renumber previous §69106 to §69107:

§ 691076. Sampling for PCBs in Soil from Electrical Transformers.

(a) The school district may choose to submit data for PCBs in soil from electrical transformers in one of the following reports: 1) the Phase I; or 2) the Phase I Addendum; or 3) the Preliminary Endangerment Assessment, in accordance with subsections (b) through (f) below. Based upon review of the Phase I, the Department may determine that PCB sampling data must be submitted in a Phase I Addendum or a Preliminary Endangerment Assessment.

(b) ~~PCB transformer evaluation~~ *PCB transformer evaluation*. If visual staining of the soil in proximity to a transformer is observed, or if historical information indicates transformers may have contained PCBs, the Department may require collection of soil samples to evaluate the possible contamination.

(c) ~~Sample collection~~ *Sample collection.* Soil samples shall be collected in close proximity to the base of each pole or pad-mounted electrical transformer. Soil samples shall be collected at surface (zero to six inches, inclusive) and at a depth of two to three feet below ground surface. If PCBs from electrical transformers are identified in the soil, the Department may require additional step-out borings on the Proposed School Site to determine the lateral and vertical extent of contamination.

(d) ~~Sample analysis~~ *Sample analysis.* Initially, only surface samples shall be analyzed for PCBs using USEPA test methods. If PCBs are detected in surface samples, the samples that were collected at depth shall also be analyzed.

(e) ~~Laboratory Quality Control~~ *Laboratory Quality Control.* QC procedures specified in USEPA Test Methods shall be followed. The data shall be qualified in accordance with the National Functional Guidelines cited in section 69103, subsection (a)(3) and USEPA guidance cited in section 69103, subsection (a)(5).

(f) ~~Data Submission~~ *Data Submission*. Data identifying concentrations of PCBs detected in soil samples collected from the Proposed School Site shall be submitted to the Department.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Renumber §69107 to §69108 thereby adopting §69108, and amending text:

§ 69108~~7~~. Phase I Recommendations.

The Phase I shall contain one of the following recommendations:

(a) No action is required for the Proposed School Site. A Phase I or Phase I Addendum that contains data from investigation of lead in soil from lead-based paint, ~~or~~ PCBs in soil from electrical transformers, or OCPs in soil from termiticide application may recommend that no further site investigation is required if the Phase I and/or Phase I Addendum demonstrate that lead, ~~and/or~~ PCB and/or OCP concentrations in soils do not exceed concentrations determined by the Department on a case-by-case basis to be protective of human health and the environment.

(b) Investigation of lead in soil from lead-based paint and/or PCBs in soil from electrical transformers is recommended but has not yet been completed. Results of this investigation will be submitted to the Department as a Phase I Addendum.

(c) A Preliminary Endangerment Assessment is required, including sampling to determine one or more of the following:

(1) If a release of hazardous material has occurred and, if so, the extent of the release.

(2) If there is the threat of a release of hazardous materials.

(3) If a naturally occurring hazardous material is present.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.