

**NOTICE OF EXEMPTION**

**To:** Office of Planning and Research  
 State Clearinghouse  
 P.O. Box 3044, 1400 Tenth Street, Room 212  
 Sacramento, CA 95812-3044

**From:** Department of Toxic Substances Control  
 Statewide Regulatory Programs Divisio  
 P.O. Box 806  
 Sacramento, CA 95812-0806

**Project Title:** UPA Corrective Action Qualification Regulations

**Project Location – Specific:** Statewide

**Project Location – City:** Statewide

**Project Location – County:** Statewide

**Description of Project:**

**Background:** State and federal laws establish authority and procedures for ensuring that actions are taken to address releases of hazardous waste and constituents that pose a threat to public health or the environment. In California, DTSC may take or require corrective action at hazardous waste facilities in accordance with statutory authority provided in chapter 6.5, division 20 of the Health and Safety Code. Corrective action is conducted primarily in accordance with requirements set forth in a permit or corrective action consent agreement. State law allows qualified unified program agencies (UPAs) to require or conduct corrective action at unified program facilities in accordance with Chapter 6.5, once DTSC determines the unified program agency is qualified. Unified program facilities include generators and on-site facilities within an UPA's jurisdiction, such those operating pursuant to a conditional exemption, conditional authorization or a permit-by-rule for fixed units.

**Project Description:** The proposed rulemaking establishes qualifications and a procedure for determining whether unified program agencies are qualified to implement corrective action at facilities under their jurisdiction. Section 25404.1 of Division 20 of the Health and Safety Code requires DTSC to adopt regulations specifying these procedures and criteria to provide to UPAs authority for environmental assessment and corrective action at unified program facilities, as described in section 25187(l) of the Health and Safety Code. This rulemaking amends section 67450.7 and adds new sections 68400.11 to 68400.16 of Title 22, Division 4.5, California Code of Regulations.

To ensure that the environmental assessment and corrective action activities of the UPAs are consistent with those conducted by DTSC, the criteria in the proposed regulations are based on DTSC's own personnel qualifications. The proposed regulations establish two tiers of qualifications for unified program agencies to conduct corrective action at unified program facilities. The Tier 1 level of qualification requires personnel expertise equivalent to the Hazardous Substances Scientist or Hazardous Substances Engineer personnel classifications used by DTSC with two years of experience and specified technical expertise, in addition to two years of agency experience and various demonstrations, including the ability to issue orders and the corrective action procedure used.

An UPA qualified in Tier 1 may, among other activities, conduct or require corrective action at unified program facilities that meet the definition of less complex sites. A less complex site is defined, among other conditions as a site at which the selected corrective action alternative is removal and disposal of a specified amount of contaminated soil (no more than 60 cubic yards), and the remaining contamination at the site does not pose a significant threat to human health.

The Tier 2 level of qualification includes the requirements for Tier 1 as well as additional experience and the technical expertise necessary for the review and approval of engineering, geological, and

toxicological interpretations, conclusions and recommendations. A unified program agency qualified for Tier 2 may require or undertake corrective action at any unified program agency, as described in section 25187(l) of the Health and Safety Code, in accordance with the corrective action provisions outlined in section 68400.16 of the proposed regulations. These corrective action provisions are consistent with the corrective action requirements that DTSC specifies in a corrective action agreement or order.

**Name of Public Agency Approving Project:** Department of Toxic Substances Control

**Name of Person or Agency Carrying Out Project:** Department of Toxic Substances Control and the affected Unified Program Agencies

**Exempt Status:** *(check one)*

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(A));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 15308
- Statutory Exemptions. State code number: \_\_\_\_\_
- General Rule (Sec. 15061(b)(3))

**Exemption Title:** Regulatory Actions for the Protection of the Environment

**Reasons Why Project is Exempt:**

The proposed regulations establish qualifications for unified program agencies to conduct corrective action at unified program facilities. These qualifications are designed to assure similar professional credentials and experience for UPA staff involved with corrective action.

The proposed regulations do not affect DTSC’s authority to require corrective action and do not change the number or type of sites that may require corrective action. The proposed regulations set qualifications for corrective action staffing by the unified program agencies that are based on DTSC’s own personnel qualifications. Therefore, no foreseeable significant environmental effects will result from the content of the regulations. In addition, each corrective action project, whether conducted or required by DTSC or a qualified unified program agency, is subject to a project-level CEQA evaluation, as required by state law and specified in the proposed regulations.

<u>Nancy Ostrom</u>	<u>( 916 ) 322-3385</u>
Lead Agency Contact Person	Phone #

_____	_____
DTSC Branch Chief Signature	Date

<u>Karl Palmer</u>	<u>Chief, Regulatory and Program Development Branch</u>
DTSC Branch Chief Name	DTSC Branch Chief Title

**TO BE COMPLETED BY OPR ONLY**

**Date Received For Filing and Posting at OPR:** \_\_\_\_\_