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Department of Toxic Substances Control

Official Policy

CIVIL RIGHTS POLICY

DTSC-XX-XXXX

Subject/Title of Policy

Official Policy Number

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Date Issued/Effective Date

Title VI Policy and Procedures (DTSC-OP-0025) (Sept. 25, 2006)

Supersedes Policy Number(s)

All Staff

Office of Civil Rights

Target Audience

Issuing Unit

Barbara A. Lee

Director

Name

Title

DRAFT

Signature

Date Signed

CIVIL RIGHTS POLICY
DTSC-XX-XXXX

DATE

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I. POLICY STATEMENT

The Department of Toxic Substances Control (DTSC) is committed to the principles of environmental justice, equal opportunity, and equitable service for all individuals in the State of California. DTSC has and will continue to meet the intent and provisions of both Title VI of the Civil Rights Act of 1964 and California Government Code section 11135. Combined, these laws provide that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation in any program, service, or regulatory activity undertaken by DTSC. DTSC will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activities that DTSC offers or conducts.

II. PURPOSE

The purpose of this policy is to ensure that DTSC carries out all of its duties and responsibilities in a non-discriminatory manner that complies with federal and state civil rights laws, including Title VI of Civil Rights Act of 1964, Executive Order 13166, California Government Code section 11135, and the California Dymally-Alatorre Bilingual Services Act.

III. RELEVANT AUTHORITIES

The following is a non-exhaustive list of federal and state laws, regulations, and guidance that provides the foundation for this policy:

1. Title VI of Civil Rights Act of 1964 (Pub. L. No. 88-352 § 601 (July 2, 1964), 78 Stat. 252.)
2. Exec Order No. 13166, 65 FR 50121 (Aug. 11, 2000)
3. Dymally-Alatorre Bilingual Services Act (Gov. Code, § 7290 et seq.)
4. Gov. Code, § 11135
5. Health and Saf. Code, § 39711
6. The Age Discrimination Act of 1975 ((Pub. L. No. 94-135 (Nov. 28, 1975), codified under 42 U. S. C. § 6101 et seq.)
7. Section 504 of the Rehabilitation Act of 1973 (codified under 29 U.S.C.A § 794)
8. Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting

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- Limited English Proficient Persons, (Exec. Order No. 13166, 69 Fed. Reg. 35602 (June 25, 2004))
9. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 16, 1994))
 10. U.S. Environmental Protection Agency, Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, Feb. 10, 2017, (Class. No. 1000.32)
 11. U.S. EPA, External Civil Rights Compliance Toolkit (Jan. 18, 2017)
 12. Dept. of Toxic Substances Control, Kettleman Title VI Settlement Agreement, Aug. 10, 2016

IV. POLICY IMPLEMENTATION

To further guide implementation of this policy, DTSC will develop, evaluate, and revise as needed a Civil Rights Implementation Plan, including, at a minimum, the steps DTSC will take to ensure civil rights protections in its permit decisions, enforcement activities, and cleanup decisions.

V. DEFINITIONS

For purposes of this policy, the definitions of the terms outlined below apply:

- a. Complainant: Individual(s) or other parties filing a civil rights complaint under this policy. An individual alleging discriminatory violations by DTSC in violation of civil rights laws can also designate an authorized representative to assist with the individual's complaint.
- b. Discrimination: The unlawful denial of fair and equal access to a program or activity offered, conducted, or administered by DTSC based on a protected characteristic.
- c. Protected characteristic: A characteristic of a person which cannot form the basis of discrimination and includes sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation.

VI. DTSC'S COMMITMENT TO CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964 provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from

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participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

California Government Code section 11135 provides that “[n]o person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.”

As a recipient of federal and state funds, DTSC is required to comply and committed to complying with Title VI of the Civil Rights Act of 1964 and California Government Code Section 11135. DTSC is committed to the principles of environmental justice, equal opportunity, and equitable service for all individuals in the State of California. DTSC will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program, service, or activity offered or conducted by DTSC. DTSC, through its Office of Administrative Services, will ensure that federal and civil rights requirements are incorporated into all applicable policies, procedures, bids, assurances, grants, and contracts that it administers or for which it has oversight responsibilities. DTSC will disseminate federal and civil rights requirements to all DTSC contractors, subcontractors, and beneficiaries of federal and state funding that it administers.

To ensure DTSC’s commitment to civil rights, DTSC will develop, evaluate, and revise as needed a Civil Rights Implementation Plan, including, at a minimum, the steps DTSC will take to ensure civil rights protections in its hazardous waste permitting process, hazardous waste facility compliance inspections, hazardous waste facility enforcement activities, and corrective action and cleanup of formerly used defense sites and other contaminated sites.

DTSC will also create, maintain, and make available to the public a list of available tools and sources of information, such as CalEnviroScreen, and will actively improve and refine these tools and information, to assist it in complying with this policy and carrying out its Civil Rights Implementation Plan.

DTSC is also committed to eliminating or reducing Limited English Proficiency (LEP) as a barrier to accessing critical DTSC programs, services, activities and information by providing language access through, among other avenues, interpretation and translation services. To ensure early, equal, and meaningful

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access to LEP persons, DTSC's Civil Rights Implementation Plan will also include program- and service-specific language access plans, including at a minimum, language access plans related to hazardous waste facility permit decisions, enforcement, supplemental environmental projects, cleanup plans, and grants and other funding opportunities. (See DTSC's Language Access Policy, DTSC-XX-XXX (DATE).)

VII. INQUIRIES AND COMPLAINTS

For questions and inquiries regarding this policy, please contact DTSC's Office of Civil Office of Civil Rights by telephone at (916) 324-3094 or by email ocr@dtsc.ca.gov. You can also contact the Office of Civil Rights by facsimile at (916) 322-2844 or by writing to:

Attn: Office of Civil Rights
Department of Toxic Substances Control
1001 "I" Street, 12th Floor
Sacramento, CA 95814

If you believe you have been subjected to behavior that violates this policy or other discriminatory treatment in violation of civil rights laws, you may file a complaint with DTSC using DTSC's Civil Rights Complaint Form (Form XXXX), which is available on DTSC's website at http://www.dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1443.pdf or by calling DTSC's Office of Civil Rights at (916) 324-3094.¹ More information regarding DTSC's civil rights violation complaint process is provided below.

If you believe that you have been subjected to behavior that violates federal civil rights laws, you may also file a complaint with the United States Environmental Protection Agency's (US EPA) Office of Civil Rights. More information regarding this process is available on US EPA's website at <https://www.epa.gov/ocr>.

1. Filing a Civil Rights Complaint with DTSC

A Complainant may file a complaint with DTSC if the Complainant believes that DTSC, including its employees or contractors, has discriminated against the Complainant based on their ethnic group identification, ancestry, religion, age,

¹ The civil rights violation complaint process outlined in this policy is for non-DTSC employees. DTSC employees alleging a civil rights violation may also file a complaint with the Office of Civil Rights. Additional information for DTSC employees regarding the civil rights violation complaint process is available from the Office of Civil Rights.

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sex, sexual orientation, color, genetic information, race, national origin, marital status, medical condition, or physical or mental disability.

The complaint process outlined in this policy applies for all allegations of violations of civil rights laws against DTSC, including its employees and contractors, including in:

- DTSC's review of hazardous waste facility permit applications;
- DTSC hazardous waste facility permit decisions, including appeals; and
- DTSC corrective action or cleanup decisions.

The Complainant may use DTSC's Civil Rights Complaint Form (Form XXXX) to submit his or her complaint to DTSC via email at ocr@dtsc.ca.gov, by facsimile at (916) 322-2844, or by mail to:

Attn: Office of Civil Rights
Department of Toxic Substances Control
1001 "I" Street, 12th Floor
Sacramento, CA 95814

The Complainant may also file a complaint by submitting a written, signed, and dated statement to DTSC. The written statement must:

- Provide the Complainant's contact information, including current street address, telephone number, and, if available, email address;
- Provide a detailed description of the alleged discriminatory act(s);
- Provide all known information that identifies the individual that committed the alleged discriminatory act(s), including, if known, whether the individual is a DTSC employee or a DTSC contractor or subcontractor;
- Identify the Complainant as a person possessing a protected characteristic who was allegedly discriminated against or a person that is authorized to represent a person or class of people who were allegedly discriminated against; and
- Demonstrates the timely filing of the complaint.

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The written statement may be submitted to DTSC in the same manner as DTSC's Civil Rights Complaint Form (Form XXXX) (see above).

The Complainant must ensure that his or her complaint is timely. To be timely, all complaints must be filed with DTSC no later than 365 days after:

- The date of the alleged act of discrimination; or,
- The date when the Complainant became aware of the alleged discrimination; or,
- The date of the last discrimination, if the same conduct continued over a course of time.

2. DTSC Review of Civil Rights Complaints

DTSC will review all written complaints to determine whether the matter is within DTSC's jurisdiction based on whether:

- The Complainant has provided a Civil Rights Complaint Form (Form XXXX) or other written, signed, and dated statement, as described above;
- The Complainant who suffered the alleged discrimination has a protected characteristic or is authorized to represent a person or specific protected class of people who were allegedly discriminated against based on a protected characteristic;
- The complaint is timely submitted;
- The complaint identifies the individual that committed the alleged discriminatory act(s), including, if known, whether the individual is a DTSC employee or a DTSC contractor or subcontractor; and
- The complaint provides a detailed description of the alleged act(s) that the Complainant believes are discriminatory.

DTSC will acknowledge receipt of the complaint within 20 business days of receiving the complaint. Within 30 calendar days of acknowledging receipt of the complaint, DTSC will provide the Complainant with written notice of whether DTSC: (1) has jurisdiction and accepts the complaint for investigation; (2) rejects the complaint; (3) or refers the complaint to the appropriate agency.

If DTSC determines it has jurisdiction and accepts a complaint for investigation,

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DTSC will assign an investigator to the complaint within five (5) business days of making this determination.

Where the complainant has articulated facts that do not appear discriminatory but warrant further review, DTSC, at its discretion, may forward the complaint to a party within DTSC or outside of DTSC for action. DTSC will inform the Complainant, either verbally or in writing, before facilitating the transfer.

3. DTSC's Investigation of Civil Rights Complaints

When DTSC has accepted a complaint for investigation, it will conduct a neutral and thorough investigation into the allegations. Upon completion of its investigation, DTSC will reach a determination on the merits of the complaint. DTSC will inform the Complainant in writing of its determination on the merits of the discrimination complaint.

4. Confidentiality of Civil Rights Complaints Filed with DTSC

DTSC strives to protect the confidentiality of the Complainant and all participants in the civil rights complaint process to the greatest extent possible and as authorized by law. The nature of this process, however, does not permit absolute confidentiality. The Office of Civil Rights may release information as necessary to resolve a complaint. DTSC may release information provided during the complaint process to appropriate DTSC personnel and outside agencies as required by law.

VIII. RESOURCES

- DTSC's Communication Assistance Resolution Form (Form 1602):
https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602.pdf (English)
https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602E.pdf (Spanish)
- DTSC's Complaint Form for Denial of Services:

- DTSC's Public Participation Manual:
<https://dtsc.ca.gov/LawsRegsPolicies/Policies/PPP/upload/DTSC-PublicParticipationManual.pdf>.

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State of California - California Environmental Protection Agency

Department of Toxic Substances Control

CIVIL RIGHTS COMPLAINT

This form should be used by members of the public to file a complaint of discrimination against the California Department of Toxic Substance Control (DTSC) that an individual believes occurred during the administration of its programs and services offered to the public. All complaints must be filed with DTSC located at 1001 I Street, Sacramento, CA 95814 –Attention: Civil Rights Compliant, telephone number (916) 324-3094, facsimile number (916) 322-2844.

Please read this form carefully and try to answer all questions that may apply to your situation. Attached to this Complaint Form is a Fact Sheet entitled "How to File a Title VI Discrimination Complaint with DTSC's Office of Civil Rights" that acts as a guide for filling out this Complaint form.

If you have any documents that support your complaint, please attach them to this Complaint Form.

1. COMPLAINANT INFORMATION:

Name	Home Address	Work Telephone Number
E-Mail Address	Daytime Telephone Number (if different)	

2. PERSON(S) OR ENTITY DISCRIMINATED AGAINST IF DIFFERENT THAN ABOVE:

Name	Home or Business Address	Work Telephone Number
E-Mail Address	Daytime Telephone Number (if different)	

3. PERSON, UNIT, DIVISION, or COMPANY THAT DISCRIMINATED:

Unit, Division or Company	Address	Telephone Number
Individual Names (if known)	E-Mail Address (if known)	

4. What happened to you? How were you discriminated, harassed, or retaliated against? If you need additional space, please use additional paper.

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5. Why do you believe you are being discriminated, harassed, or retaliated against? For example, do you believe that what has happened to you or is happening to you is because of your sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation? Or do you believe that what has happened or is happening to you is because of **something else**? Please use additional paper if you need to fully explain.

6. Who witnessed or has knowledge of the alleged act of discrimination, harassment, or retaliation that you are complaining about? Please list the names of any and all witnesses to the discrimination, harassment, or retaliation. Please use additional paper if you need to.

7. When did the last act of discrimination, harassment, or retaliation occur? Please be specific on this date, and indicate the earliest date of the discrimination and the most recent date of the discrimination.

DTSC makes every effort to protect confidentiality in any investigation, but cannot guarantee absolute confidentiality. The right to due process and equitable treatment for all parties involved requires DTSC to interview many individuals in its investigation. Confidentiality will be protected and honored to as great a degree as is legally possible. However, anonymity and complete confidentiality cannot be guaranteed once a complaint is made or unlawful behavior is made known to DTSC. It is important that you keep the proceedings of any interview with you strictly confidential. The complaint files will be maintained in confidence to the fullest extent of the law.

ASSURANCE AND SIGNATURE

I affirm that the above information is true to the best of my knowledge, information, and belief.

Date:

Name

Signature

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HOW TO FILE A CIVIL RIGHTS COMPLAINT

DTSC is committed to ensuring that no person is excluded from participation in, or denied the benefits of its services on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation.

Therefore, if you believe that you have been subjected to discrimination under Title VI of the 1964 Civil Rights Act or Government Code section 11135 by DTSC, you may file a complaint with DTSC's Office of Civil Rights (OCR).

You must file your discrimination complaint within one year of the alleged discrimination. However, if you do not discover facts about a discriminatory practice until after the expiration of the one-year filing period, you may have an additional 90 days to file a complaint. The address and telephone number for DTSC's OCR is listed in the heading of the Complaint Form.

The OCR needs certain information to investigate your complaint. Consequently, please make sure you carefully follow the instructions below for filing out your complaint. The instruction numbers match the numbers in the Discrimination Complaint Form.

- 1.** Under **Complainant Information**, please set forth your legal name; home address; home telephone number; e-mail if you have one; and, a daytime phone number where you can be reached.
- 2.** Under **Person(s) or Entity Discriminated Against If Different Than Above**, please set forth the name; address; telephone numbers; and, e-mail if you know-it, of the person or entity that you believe has been discriminated against.
- 3.** Under **Person, Unit, Division, or Company That Discriminated**, please set forth as much information you have concerning the entity or individual that you feel committed the discrimination.
- 4.** Under **What happened to you**, please provide in succinct detail each incident that you believe showed that:
 - a.** You were excluded from participation in the federally funded or state program or activity;
 - b.** You were denied benefits from the federally funded or state program or activity; or,
 - c.** You were subjected to discrimination in a federally funded or state program or activity.
- 5.** Under **Why** do you believe you were excluded, denied the benefits, or subjected to discrimination, both Title VI of the 1964 Civil Rights Act and Government Code section 11135 prohibit the exclusion, denial of benefits or being subjected to discrimination because of the person's **sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation**. For the OCR to investigate your complaint, you must provide a cause for the alleged treatment. For example, "DTSC did not investigate my contamination complaint because of my **national origin**." In this example, the alleged reason for being denied DTSC's enforcement services is because of the individual's **national origin**.
- 6.** Under **Who** witnessed or has knowledge of the exclusion, denial of services, or discrimination, please set forth the full name, phone number, e-mail of the individual that may have some knowledge regarding your allegations.
- 7.** Under **When** did the last act of exclusion, denial of services, or discrimination occur, please set forth the earliest date of these actions and the most recent action of exclusion, denial of services, or discrimination.