

These draft recommendations and data requests are for discussion and consideration by the IRP during its February 10, 2016 meeting Agenda Item 11, for possible inclusion in a supplement to the IRP's January 28, 2016 Initial Report to the Governor and the Legislature pursuant to Health & Safety Code § 57104(f).

### **Site Mitigation - Health & Safety Code § 57014(d)**

Subsection 57014(d) of the Health and Safety Code requires the IRP to review and make recommendations regarding improvements to the DTSC's "programs."

The DTSC's Brownfields and Environmental Restoration Program cleans-up or oversees approximately 220 hazardous substance release sites at any given time and completes an average of 125 cleanups each year. Expediting site mitigation is an important goal of the Program, and a series of "Brownfields" initiatives support that effort. The Voluntary Cleanup Program and the California Land Reuse and Revitalization Act (CLRRRA) Program encourage responsible parties to clean-up contaminated properties by offering economic, liability, or efficiency incentives. The CLRRRA, Health & Safety Code § 25395.60 *et seq.*, which is set to expire on Jan. 1, 2017, encourages revitalization of blighted properties by allowing purchasers of contaminated lots to negotiate a cleanup plan with the State in exchange for liability protection from damages associated with the original contamination that they had no role in. In addition, the DTSC also continues to have lead responsibility for site mitigation and enforcement at several high profile federal Superfund sites including Casmalia Resources and Stringfellow.

Also, the State Superfund, overseen by the DTSC's Brownfields and Environmental Restoration Program, covers sites for which there are no cleanup options through the responsible party and which threaten the people or the environment of California. In its January 28, 2016 Report to the Governor and the Legislature, the IRP recommended an increase in the DTSC's Site Remediation Account funding to address the projected shortfall for orphan site cleanup and transition of federal sites to State operations and maintenance oversight.

Additionally, the DTSC works to ensure that all new, existing, and proposed school sites are environmentally safe. State laws require all proposed school sites that will receive state funding for purchase or construction to go through the DTSC's environmental review. This process ensures that new school sites are uncontaminated, or if previously contaminated, that they have been cleaned-up to a safe level. Last year, the DTSC assessed, investigated, or cleaned up more than 450 different school sites in California to ensure that the State's need for new schools is met and children are fully protected.

California has one-third of the closing military bases in the country and more than 1,000 former defense sites. The DTSC is currently investigating, cleaning-up, or providing technical assistance at more than 160 current or former military installations statewide. This task presents some unique challenges including addressing residual unexploded ordinance, chemical and biological munitions, and other toxic substances that remain on the property.

The DTSC's Brownfields and Environmental Restoration Program has 331.75 authorized positions, including staff at Berkeley, Chatsworth, Cypress, Sacramento and San Joaquin branch offices.

The 15-acre Exide Technologies facility in Vernon, CA recycled lead from used automotive batteries and other sources. In spring 2014, DTSC ordered Exide to suspend operations. In March 2015, Exide reached an agreement with federal officials to shut down, demolish and clean the site, and fund \$38 million to do so. On December 8, 2015, the DTSC issued public notice on a draft closure plan for the Exide Technologies site, currently undergoing public comment. In addition, soil investigation shows that up to 5,000 -10,000 residential properties in Maywood and Boyle Heights may be potentially affected by Exide Technologies' lead contamination. The cost to investigate and remediate all these properties could exceed \$100 million dollars. The DTSC has spent the \$9 million paid to date by Exide Technologies, as well as \$7 million in State funds that the DTSC obtained in FY 15/16 in order to expand testing and cleanup. At its meetings to date, the IRP has received much public comment from concerned residents of Southeast Los Angeles County about the Exide Technologies site. At its February 10, 2016 meeting, the IRP agendaized and the DTSC presented on the status of the closure plan and residential investigation and site mitigation relating to Exide Technologies, including funding.

At its December 18, 2015 meeting, the IRP received public comment from communities at Ag Park, Riverside; Jordan Downs, Los Angeles; and Santa Susana Field Laboratories, Simi Valley. During the meeting, concerns were expressed about the Brownfields and Environmental Restoration Program's activities at these sites with regard to: fugitive dust emissions from site mitigation activities that can affect adjacent sensitive receptors, the accuracy of sampling relied on for "No Further Action" letters, and disposal of radioactive waste above background levels.

**Recommendations to the Governor and Legislature to Improve Site Mitigation:**

Consider funding mechanisms including new fees and increased appropriations to the DTSC to fund necessary investigation and site remediation of residential properties affected by Exide Technologies' lead contamination.

Support pending SB 820 (Hertzberg) that removes the sunset for the California Land Reuse and Revitalization Act.

**Recommendations to the DTSC for Improve Site Mitigation:**

The DTSC should convene regulatory agencies and publish a strategy by 1/1/17 on how, in appropriate cases, to require fence/line/aerial deposition monitoring during site mitigation where there are adjacent sensitive receptors.

The DTSC should publish on its website, an easy to read matrix of clean up goals and sampling levels, to enhance transparency of site mitigation at particular sites that are subject to public concern and inquiry.

The DTSC should provide raw data for site mitigation, once verified, to the public upon request.

IRP Data Requests to the DTSC re: Site Mitigation

IRP requests that the DTSC report, by 7/1/16, on disposal requirements for radioactive waste that is above background levels.

IRP requests that the DTSC report, by 7/1/16, on the concept of “averaging” used to determine site mitigation standards, and federal guidance thereon.

IRP requests that the DTSC report, by 7/1/16, on results of follow-up sampling at Ag Park, Riverside, and any gaps in the DTSC’s site mitigation standards.

IRP requests that the DTSC report, by 7/1/16, with an update on the status of the closure plan and residential investigation and cleanup relating to Exide Technologies, including funding.

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