

Department of Toxic Substances Control Public Participation Manual

**State of California
Environmental Protection Agency
Department of Toxic Substances Control**

**Public Participation
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Preface

The California Department of Toxic Substances Control (DTSC) Public Participation Policy and Procedures Manual was developed by those valued Public Participation Specialists, whose talents and experiences have brought about an outstanding public involvement outreach effort for the State's Hazardous Waste Management and Site Mitigation programs. This manual supersedes the previous manual entitled Public Participation Policy and Guidance Manual.

This policy and procedures manual is based on state and federal statutes and regulations, and sets DTSC policy for public participation. This manual is designed to address the public participation components of the site mitigation and hazardous waste management processes and ensure compliance with state and federal laws and regulations.

The manual is designed for use primarily by the DTSC technical staff and public participation specialists, supporting site mitigation and hazardous waste management efforts.

IMPORTANT: Consulting this manual early in the process will minimize project delays by identifying required public participation activities, so they can be included in the project plan.

Disclaimer

The policies and procedures established in this manual are intended solely for the guidance of employees of the California Environmental Protection Agency, DTSC. They are not intended and cannot be relied upon to create any rights, substantive or procedural, enforceable by any party in litigation with the DTSC or any other agency of the State of California. DTSC reserves the right to act at variance with these policies and procedures and to change them at any time without public notice. The contents of this manual may change to reflect current statute or regulation, please consult DTSC's website for the most current language.

Mission Statement of the Public Participation Program

It is the mission of the Public Participation Program to ensure that the public is informed and involved early; that their issues and concerns are heard; and that their comments are considered prior to final decisions by DTSC staff and management.

Vision Statement of the Public Participation Program

We recognize that all members of the public have a stake in our decisions, and they should have the opportunity and are encouraged to participate in developing solutions to site cleanup and facility corrective action, determining the adequacy of permitting proposals, and encouraging the reduction of hazardous waste generation.

We actively promote the tenets of public participation within DTSC; we advise technical staff; and we provide the community's perspective during the managerial decision-making process.

Cultural and economic diversity is considered during our planning, decision-making, and in our outreach efforts. We recognize that all Californians are varied in their backgrounds, beliefs and cultures, and we are sensitive to their needs.

Introduction and Purpose

Public participation is an ever-changing process. The public's increasing desire to become involved in government decision-making has prompted legislative actions which now require public agencies to be more responsive to a community's needs. A proactive approach to public participation has been a fundamental element of the DTSC's Site Mitigation and Hazardous Waste Management programs for many years. Efforts to improve the public participation began in 1986, with the writing of policies and procedures, which would eventually be placed in the Public Participation Policy and Guidance Manual, issued in 1988. Since then, the dynamics of public policy have changed many of the ways that DTSC does business. As a result, public participation policies have changed to reflect the evolving climate in which DTSC must operate.

This policy manual is designed to give the reader a "cookbook" approach to public participation. A list of requirements and suggested activities are outlined for program activities, while a description of those requirements is contained in Chapter 6: Public Participation Tasks and Techniques.

While this approach is designed to meet public participation requirements, those who conduct outreach efforts must realize that successful public participation hinges on the commitment of DTSC staff to the principles of public involvement.

The objectives of this manual are to:

- ◆ Serve as a guidepost for the public affected by DTSC's decisions in that it provides information on the process by which members of the public can become involved and have an impact on DTSC's decision-making;
- ◆ Referral to communities etc;
- ◆ Identify the various federal and state laws which mandate public participation within the Site Mitigation and Hazardous Waste Management processes;
- ◆ Identify the various California regulations under which public participation is administered;
- ◆ Establish statewide departmental policies and procedures for the public participation program;
- ◆ Provide guidance to Project Managers, enforcement staff, Public Participation Specialists, potentially responsible parties, armed services personnel, and project proponents and their contractors in formulating and implementing public participation plans;
- ◆ Identify the roles and responsibilities of persons involved with public participation processes within the Site Mitigation and Hazardous Waste Management Programs, and other programs where statute, regulation or DTSC policy requires public outreach; and,
- ◆ Differentiate between Public Participation and Public Relations, as the differences are significant.

Note: The procedures in this document are examples of public participation procedures, which can be effective in a variety of situations. However, a public participation plan must be flexible to accommodate the changing needs and attitudes of an individual or a community. The Project Manager, Public Participation Specialist, the public or community, and contractor must work together to continually assess community needs and alter a public participation plan when necessary.

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CHAPTER 1
HOW TO USE THIS MANUAL

How to Use This Manual

The DTSC Public Participation Policy and Procedures Manual is the primary reference for preparing, implementing and monitoring all public participation activities required under DTSC’s site mitigation and hazardous waste management processes.

IMPORTANT: Make every effort to ensure that a site mitigation or hazardous waste management project stays on schedule by consulting this manual early in the process to identify those required public participation activities, and include them in the project plan.

Organization

Chapters	<p>This manual is organized into the following chapters:</p> <p>Preface i</p> <p>How to Use This Manual Chapter 1</p> <p>Public Participation Program..... Chapter 2</p> <p>Site Mitigation Processes Chapter 3</p> <p>Hazardous Waste Management Processes Chapter 4</p> <p>Public Participation During CEQA Chapter 5</p> <p>Public Participation Tasks and Techniques Chapter 6</p> <p>Appendix TBD</p> <p>Glossary TBD</p> <p>Index TBD</p>
Manual Content Pages	<p>The overall manual content pages give an overview of all chapters. For example, the “Site Mitigation Processes” chapter includes a “Roles and Responsibilities” subsection.</p>
Page Footer	<p>At the bottom (“footer”) of each manual page is a page number and revision date. The page number is divided into two parts: the chapter and page within the chapter. For example, page 2-1 represents Chapter 2, Page 1.</p>
Appendix	<p>The Appendix contains various examples of public participation documents, which could not be accommodated within a specific section.</p>
Glossary	<p>The Glossary is a list of commonly used DTSC terms, abbreviations and acronyms used throughout this manual, as well as terms used in performing the day-to-day activities for DTSC projects.</p>
Index	<p>The Index is an alphabetical list of subjects appearing in this manual, together with the page number(s) on which the subject appears.</p> <ul style="list-style-type: none">o Include Public Participation Specialist in initial project scoping and consult regularly

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CHAPTER 2
OVERVIEW OF THE
PUBLIC PARTICIPATION PROGRAM

Chapter 2 ♦ Public Participation Process

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Overview of the Public Participation Program

Overview

Public Participation is an integral part of the site mitigation and hazardous waste management processes, and is the responsibility of each DTSC employee who has a role in DTSC's decision-making process. DTSC's experience has clearly shown that a well-planned public participation program, fully integrated into the overall technical program is a key factor in successful site remediation, corrective action, permitting and other DTSC activities where statute, regulation or policy requires public outreach. Moreover, communities that are involved early and throughout the decision-making process may be more trustful and supportive of the process.

Roles of Public Participation and Public Relations

DTSC's public participation program is not a public relations tool in the sense that public relations is "one-way" communication. It is DTSC's policy to create a dialogue with all stakeholders to ensure that their concerns and priorities are incorporated into each project. DTSC policy mandates a proactive public participation program that encourages community involvement by providing for the free flow of information to and from the community, as well as identifying and considering community concerns.

Public participation is designed to:

- ◆ Establish an ongoing two-way communication process that provides information in a manner comprehensible to the layperson;
- ◆ Ensure response to questions and concerns in a responsive and timely fashion; and,
- ◆ Take public concerns into account when final decisions are made on projects.

DTSC staff, contractors, responsible parties and others conducting public participation activities required by and/or overseen by DTSC should always bear this distinction in mind. The role of DTSC staff is readily discernible by interested community members, and it is important that they understand that the role of the Public Participation Specialist is to initiate and maintain a two-way conversation.

Risk Communication

If the program is to achieve maximum effectiveness, the public must be informed early and consistently throughout the process, and DTSC must remain open to public input. For DTSC, its contractors and the regulated community to fully evaluate public input, there must be an understanding that the public's definition of risk may not fully correspond to the scientific community's evaluation of risk. Factors such as control over decision making; mistrust of government and industry; long-term, non-health related effects such as property values, traffic and noise are not part of health risk assessments. Recognizing these factors will assist DTSC in addressing community concerns. In light of this, it is vital that DTSC staff members make early and concerted efforts to ensure that the regulatory and public involvement processes are explained to the community.

It is DTSC's policy that the public is involved early and continuously in its decision-making process. To determine the level of community interest, it will be necessary in most cases to conduct some form of community assessment. The most thorough form of community assessment is a Public Participation Plan, which is in effect DTSC's contract with the community on how and when communication will take place. As communities are fluid, the Public Participation Plan is considered a "living" document, one that changes as the level of and need for public involvement changes. With public input, the Plan should be reviewed and updated as necessary to ensure it meets the community's needs.

Environmental Justice

Communities have and will continue to raise the issue of environmental justice. While environmental justice must be defined by the affected communities, the issue generally refers to inequitable existence of environmental risks in communities with a high proportion of low income and/or minority populations. These communities are demanding that DTSC consider environmental justice in its allocation of resources and in its decision-making process. Often these communities raise the issue of "cumulative impacts" (multiple sources or multiple chemicals), which refers to the health and other social impacts of numerous industrial facilities (within and without DTSC's regulatory jurisdiction), hazardous waste sites, and other potential sources of pollution. In fact often the concern includes "multiple sources" many of which may not be under DTSC's regulatory control. These issues are complex and often inter-related, and require the interaction of several government agencies at all levels. It makes good sense for DTSC, in its community assessment, to consider this and determine the necessary level of involvement from other agencies, not just in terms of DTSC's decision-making, but also in terms of questions and concerns that will be raised by community members.

Remember: All Californians are entitled to a clean environment, and have a right to information concerning decisions that affect their health and their community. DTSC recognizes that all Californians have a stake in the outcome of its decisions, and therefore shall take all necessary steps to ensure that communities have the opportunity to participate in the decision-making process. DTSC shall make decisions that take into account the concerns of all communities, and its decisions shall be non-discriminatory.

Electronic Communications

During the past five years, the use of electronic communications (email and the Internet) has expanded greatly. Today, a significant portion of the public has access to a computer that is in turn linked to the World Wide Web. For many, electronic communication is the preferred method for transmitting and receiving information. Electronic communication is faster, cheaper and more environmentally sensitive than many other forms of communication.

Electronic communications affect a number of public participation activities, including:

- ◆ fact sheets
- ◆ public notices
- ◆ other written communications
- ◆ repositories
- ◆ response to comments documents
- ◆ public comments
- ◆ posting of documents

The following policy statements apply to DTSC's outreach efforts:

Community Assessment

During the community assessment phase (profile, survey, public participation plan) an evaluation of a community's ability to utilize electronic communication should be conducted.

Public Notifications

All products such as Fact Sheets, Public Notices, Legal Notices, or other such Notifications that are produced or overseen by DTSC must be placed on DTSC's web site. Contact your public participation specialist for instructions on how to place the document on the web site.

Repositories

The Public Participation Specialist should consider the community's ability to access key decision-making documents via the Internet. DTSC's web site can serve as a virtual repository for many types of information, including key decision-making documents, which are normally placed in a repository. General information about DTSC, regulations, statutes, policies and procedures, processes, information on risk assessment and links to a wide variety of information can help the public obtain a better understanding of a project. Consideration should always be given about the ability to place key documents on the web site.

Note: a "virtual" repository should not replace the need for a physical repository located within a community.

Public Comments

DTSC will accept electronic comments submitted during a public comment period. Fact sheets, notices and other informational material should indicate the ability for the public to submit electronic comments, and provide an e-mail address for the DTSC contact.

Response to Comments

Every effort should be made to provide electronic copies of response to comments documents to those who request this form of communication.

General Issues

Use of electronic communication will continue to evolve. DTSC staff should always seek innovative methods of utilizing electronic communication in order to provide the public with information. As cost permit, teleconferencing, Internet "live feeds" and other forms of electronic communication may be possible to communicate with the public.

Despite a growing trend toward this form of communication, many individuals and groups may not have access to the Internet or a computer. In the interest of serving the entire public, electronic communication can not replace more traditional information tools.

Public Participation Benefits the Technical Programs

Effective public participation is of great benefit to the technical aspects of DTSC's program, because:

- ◆ Information collected during public participation activities assists DTSC in making more informed decisions about sites and facilities;
 - ◆ Providing information to the community about the site and engaging in serious discussions about that information reduces the potential for delays that might arise if the community objects or does not understand a DTSC action or decision;
 - ◆ Providing opportunities for the community to get to know and interact with project staff helps establish and maintain DTSC credibility within a community; and,
 - ◆ Establishing and maintaining communication with the community, local officials and relevant government agencies helps DTSC to ensure that critical site or facility information is disseminated in an accurate and timely manner.
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Public's Right to Information

A final, fundamental factor to keep in mind while engaged in a decision-making process is that the public has a right to information that affects its quality of life. DTSC is committed to an open and constructive communication process.

The Public Records Act, Government Code § 6250 et. seq., declares that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

In 1986, the California Legislature declared:

The Legislature has found that access by the people of this state to public records is a fundamental and necessary right. The Legislature finds that it is necessary to further the public's right to access to public records pertaining to hazardous waste management, information, and cleanup, to assure the fullest opportunity for public participation in permitting and other decisions in order to protect public health and the environment. (Health and Safety Code (HSC) § 25103)

Statutory and Regulatory Authorities

Several Federal and State environmental statutes and regulations require that public participation processes be conducted at hazardous waste sites and facilities. They are:

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, known as the Federal Superfund or (CERCLA) (42 U.S.C.A. § 9601 <i>et seq.</i>).
SARA	Federal Superfund Amendments and Reauthorization Act (SARA), (1986), which amended CERCLA (Pub. L. 99-499)
CERFA	Community Environmental Response Facilitation Act (CERFA), (1992). Amended CERCLA to facilitate the rapid identification and return to local communities of clean properties identified in the Base Realignment and Closure (BRAC) process (42 U.S.C.A. § 9620).
E.O. 12580	Executive Order 12580, (1987). Delegates to different departments and agencies, including DOD and DOE, specific responsibilities which have been assigned to the President under CERCLA/SARA.
RCRA	Resource Conservation and Recovery Act (RCRA), 1976, (amended in 1980 and 1984). Federal statute which regulates facilities that treat, store or dispose of hazardous waste (42 U.S.C.A. § 6901 <i>et seq.</i>).
FFCA	Federal Facilities Compliance Act (FFCA) (1992). Amended RCRA to amend the waiver of sovereign immunity to ensure that federal facilities are subject to the requirements of RCRA to the same extent as private parties (See 42 U.S.C.A. § 6901 note).
40 C.F.R.	Title 40 of the Code of Federal Regulations (40 C.F.R.) contains the regulations promulgated by the United States Environmental Protection Agency (U.S. EPA), including those implementing CERCLA and RCRA.
NCP	National Oil and Hazardous Substances Pollution Contingency Plan (NCP). Sub-part E of the NCP establishes the procedures for responding to releases of the hazardous substances, pollutants and contaminants (40 C.F.R., § 300.1 <i>et seq.</i>) The NCP was substantially revised in 1990. See 55 Fed. Reg. 8813, March 18, 1990.
NEPA	The National Environmental Policy Act (NEPA) (42 U.S.C. Sec. 4321 <i>et seq.</i>) establishes an environmental review process that is separate from but similar to that under CEQA. However, NEPA applies only to federal agencies. A project is subject to NEPA when it requires permits, entitlements, or funding from a federal agency; when it is jointly undertaken with a federal agency; or when it is proposed on federal land.

State and local agencies are encouraged to use NEPA documents to replace CEQA documents if the NEPA process is proceeding faster than the CEQA process and the NEPA documents comply with CEQA. The state or local agency may use the NEPA document without re-circulation if the NEPA document is circulated as broadly as required by CEQA, and if the agency gives notice that it intends to use the NEPA document.

A federal agency may use an Environmental Impact Report (EIR) conducted under CEQA to satisfy NEPA only if a state agency with statewide jurisdiction prepares the EIR for a federal grant project and the federal agency actively participates in the environmental review process.

The processes for CEQA and NEPA are similar, although public notification under CEQA is broader. If a federal document (an Environmental Impact Statement (EIS) or a Finding of No Significant Impacts (FONSI)) is to be used, the lead agency must give notice that it will use the federal document in place of an EIR or negative declaration, and that it believes that the federal document meets the requirements of CEQA. The notice shall be given in the same manner as the notice of the public availability of a draft EIR.

Before an environmental document is under way, DTSC and the federal agency should determine what process will be used, and have a clear understanding of the public participation activities that will take place during the process. If an EIS or FONSI is to be developed, public participation activities will follow the CEQA guidelines outlined in Chapter 6 of this manual.

CEQA

California Environmental Quality Act (CEQA), (1970, amended in 1993). Requires state and local agencies to disclose and consider the environmental implications of their decisions, and to avoid or reduce the significant environmental impacts of their decisions whenever it is feasible to do so. (Public Resources Code, § 21000 et seq.). The State CEQA Guidelines, developed by the Office of Planning and Research and adopted by the Secretary for Resources, are binding on all state and local agencies (Title 14, CCR § 15000 et seq.).

HWCL

Hazardous Waste Control Law (HWCL, (1972)). California's statute regulating the management of hazardous waste. Health and Safety Code, Division 20, Chapter 6.5 (HSC § 25100 et seq.)

HSA

Reauthorization of H&S Code 6.8 - The Carpenter-Presley-Tanner Hazardous Substances Account (HSA), (1981). California's superfund program. Health & Safety Code, Division 20, Chapter 6.8 (HSC § 25300 et seq.) (Revised 1999)

Health and Safety Code

The California Health and Safety Code, (Division 20, Safety Code “Environmental Health”) contains the State’s hazardous waste management laws. These laws include:

Chapter 6.5	Hazardous Waste Control
Chapter 6.6	Safe Drinking Water and Enforcement Act
Chapter 6.65	Unified Agency Review of Hazardous Materials Release Sites
Chapter 6.67	Above Ground Storage of Petroleum
Chapter 6.7	Underground Storage of Hazardous Substances
Chapter 6.8	Hazardous Substances Account
Chapter 6.9	Liability for Abatement of Hazards
Chapter 6.11	Unified Hazardous Waste and Hazardous Materials Management Regulatory Program
Chapter 6.95	Hazardous Materials Release Response Plans and Inventory
Chapter 6.97	Hazardous Materials Information and Consulting Services
Chapter 6.98	Environmental Quality Assessment

Title 22, CCR

Title 22, California Code of Regulations (CCR) (Div. 4.5) Environmental Health Standards for the Management of Hazardous Waste) details the regulatory requirements for the implementation of hazardous waste management statutes contained in the Health and Safety Code.

Roles and Responsibilities

The DTSC Public Participation Program is organized into four primary functions: headquarters operations, regional Hazardous Waste Management and Site Mitigation support operations, federal facilities operations, and school support operations. The entire public participation effort is directed by the Chief of Public Participation and Education (Chief). Each of the five regional units (two based in Sacramento) are supervised by a Public Participation Supervisor.

Chief

The Chief of Public Participation is responsible for the implementation of the DTSC public participation mission. The Chief directly advises hazardous waste management and site mitigation deputy directors as well as the Director’s office and Chief Deputy Director for External Affairs in matters pertaining to public participation. The Chief is responsible for the development of policy, procedures, guidance and training, tracking and reporting the branch budget, and ensuring all applicable Federal and States laws, regulations, and directives regarding public participation are followed. The Chief also manages the branch and supervises the Public Participation Supervisors.

Public Participation Supervisor

The Public Participation Supervisor is responsible to:

- ◆ Ensure that all applicable Federal and State laws, regulations, and directives regarding public involvement in hazardous waste management are executed at all sites and facilities in California;
- ◆ Advise DTSC site mitigation and HWM permitting management (branch chiefs and supervisors) in matters pertaining to public participation;

- ◆ Manage the Public Participation Unit's workload and budget, and provide supervision and support;
 - ◆ Manage the administrative support for the Public Participation Program;
 - ◆ Perform other duties of a Public Participation Specialist, when necessary.
-

Public Participation Specialist

The Public Participation Specialist works closely with each site/facility Project Manager, and is available to:

- ◆ Identify and plan appropriate public participation activities and techniques;
- ◆ Monitor and if resources are available, initiate public participation activities being conducted;
- ◆ Serve as an advisor to technical seniors and Branch Chiefs on issues of community concern and involvement;
- ◆ Coordinate with Project Manager;
- ◆ Elevate critical public participation issues through the Public Participation Specialist Supervisor;
- ◆ Ensure that all public participation requirements are being met; and,
- ◆ Provide direct input and oversight to ensure that the community outreach program is effective in achieving the intent of RCRA, CERCLA, and the NCP public participation provisions.
- ◆ Works directly with project proponents, responsible parties, and their consultants to ensure public participation activities are conducted as required and appropriate.

NOTE: The Public Participation Specialist may be assigned to coordinate all public participation activities at the more complex and controversial sites, while the Project Manager has review and approval responsibilities on technical activities. Although consultation with technical staff is required, the Public Participation Specialist has final review and approval for completeness and quality of public participation activities and documents, while the Project Manager is responsible to ensure all technical information in the public participation document is accurate.

Project Manager

The Project Manager oversees all activities conducted at the site/facility. In addition, the Project Manager must:

- ◆ Include Public Participation Specialist in initial project scoping and consult regularly with the Public Participation Specialist throughout the project.
- ◆ Work cooperatively with the Public Participation Specialist to ensure that appropriate public participation requirements of CERCLA, RCRA, CEQA, NCP, and DTSC policy are addressed either directly or through the Public Participation Specialist;
- ◆ Be familiar with all required and optional public participation activities and must be prepared to assist the Public Participation Specialist with public participation activities throughout the technical work on a site/facility if Public Participation Specialist resources are unavailable; and,

- ◆ Obtain Public Participation Specialist approval in all public participation activities and work products.
-

Headquarters Operations

HQ operations staff are responsible for developing policy, procedures, guidance documents, and training programs; evaluating programs; and analyzing resources. The HQ operations staff also provide informational materials and support services to regional operations and federal facilities and schools support staff. Other specific tasks conducted by HQ staff include:

- ◆ Weekly report
 - ◆ Monthly report
 - ◆ Maintenance of Public Participation Headquarters project files
 - ◆ Development and updating of strategic plan
 - ◆ Development of the annual work plan (or operational plan)
 - ◆ Contract management
 - ◆ Training
 - ◆ Planning
 - ◆ Tracking
-

Deputy Directors and Division Chiefs

Deputy directors and division chiefs for Site Mitigation, Hazardous Waste Management, and External Affairs work closely with the Chief of Public Participation to ensure that public input and concerns are considered along with technical issues prior to final project decisions. Deputy directors and division chiefs are responsible for actively setting a tone that encourages all staff to pursue DTSC's public participation philosophy, and to ensure that their branches integrate public involvement with technical programs, including early planning and adequate resources for new programs.

Branch Chiefs/ Unit Chiefs

Site Mitigation and Hazardous Waste Management branch chiefs and unit chiefs are accountable for knowledge and implementation of public participation requirements. These managers are key partners in working with the public participation supervisors and the Chief of Public Participation to resolve community issues and concerns pertaining to projects before those concerns become problems. Branch chiefs and unit chiefs rely on public participation experts to identify the needs of affected communities and provide advice on proactive public involvement.

Contractors

Public participation contractors can provide support services for many of the program tasks. However, contractors shall not represent, or appear to speak for, DTSC on policy issues before the public, other government officials or the media. The amount of contractor assistance and the division of responsibility between DTSC staff and the contractor will vary from project to project. DTSC staff shall work closely with contractors in delegating tasks, regardless of the type or level of support being given.

Exhibit 1 - Public Participation Task Responsibilities

Activity	Public Participation Specialist	PPS, PM, or clerical support	Project Manager
Community Profile	<ul style="list-style-type: none"> ◆ Review Community Profile ◆ Make recommendations for further assessment 	<ul style="list-style-type: none"> ◆ Prepare Community Profile for state-lead sites 	<ul style="list-style-type: none"> ◆ Request Community Profile from project proponents & forward to PPS
Community Survey	<ul style="list-style-type: none"> ◆ Develop survey questions ◆ Review & approve survey cover letter ◆ Determine scope of distribution ◆ Evaluate & summarize the results of the survey 	<ul style="list-style-type: none"> ◆ Print & mail survey 	<ul style="list-style-type: none"> ◆ Draft Community Survey cover letter ◆ Review survey comments & make recommendations
Community Interviews	<ul style="list-style-type: none"> ◆ Identify needs for interviews ◆ Identify interview scope ◆ Identify language spoken ◆ Prepare/approve questions ◆ Conduct interviews ◆ Review assessment summary (write for state-lead sites or permits) 	<ul style="list-style-type: none"> ◆ Schedule interviews 	<ul style="list-style-type: none"> ◆ Suggest interview participants ◆ Review & make recommendations on questions ◆ Comment on summary ◆ Participate in interviews, if necessary
Public Participation Plan	<ul style="list-style-type: none"> ◆ Review & approve (write for state-lead sites or permits) 	<ul style="list-style-type: none"> ◆ Prepare tables for state-lead sites or permits 	<ul style="list-style-type: none"> ◆ Review and comment
Mailing List	<ul style="list-style-type: none"> ◆ Identify scope ◆ Identify known contacts ◆ Review & approve mail list 	<ul style="list-style-type: none"> ◆ Gather data for mailing list ◆ Enter into database ◆ Update as needed 	<ul style="list-style-type: none"> ◆ Identify known interested parties/agencies ◆ Acquire contiguous property owners and occupants list from RP or permit applicant
Fact Sheets	<ul style="list-style-type: none"> ◆ Identify need/objective/scope ◆ Edit/revise/finalize ◆ Approve final 	<ul style="list-style-type: none"> ◆ Graphic design & layout ◆ Printing & mailing 	<ul style="list-style-type: none"> ◆ Consult on need for a fact sheet ◆ Prepare first draft of text ◆ Provide additional info. as requested ◆ Review, edit & approve final document for technical accuracy
Public Notices	<ul style="list-style-type: none"> ◆ Review & approve ads ◆ Identify media to use 		<ul style="list-style-type: none"> ◆ Prepare public notice/radio ad ◆ Obtain bids ◆ Prepare service authorization ◆ Place ads as directed
Public Hearings/ Meetings	<ul style="list-style-type: none"> ◆ Identify need/objective/time frame ◆ Identify location ◆ Develop agenda ◆ Coordinate development of presentations for all participants ◆ Review/approve presentations ◆ Conduct dry runs ◆ Approve graphic/handout text 	<ul style="list-style-type: none"> ◆ Make meeting room arrangements ◆ Arrange for interpreter/court reporter, if needed ◆ Prepare meeting supplies (sign-in sheets, name tags, comment forms) 	<ul style="list-style-type: none"> ◆ Coordinate w/PPS on meeting plans ◆ Prepare presentations ◆ Participate in dry runs ◆ Coordinate with PPS on graphics ◆ Participate in meeting ◆ Develop graphic/handout text
Information Repositories	<ul style="list-style-type: none"> ◆ Establish location ◆ Identify documents to be included ◆ Monitor status during project 	<ul style="list-style-type: none"> ◆ Inventory all documents sent to repository ◆ Forward documents requested 	<ul style="list-style-type: none"> ◆ Identify documents to go into repository ◆ Provide copies to library for inclusion
Response to Comments	<ul style="list-style-type: none"> ◆ Provide input to Project Manager on organization & scope of response to comments ◆ Review response to comments for clarity & responsiveness ◆ Respond to comments on PP ◆ Elevate community comments to DTSC management for consideration, if necessary. 		<ul style="list-style-type: none"> ◆ Write draft response to comments ◆ Refer comments to other appropriate DTSC staff for draft responses ◆ Distribute draft for final review ◆ Finalize & distribute the response to comments
Task Order Preparation	<ul style="list-style-type: none"> ◆ Identify need/scope of work, budget 	<ul style="list-style-type: none"> ◆ Prepare task order ◆ Track invoices/balances 	<ul style="list-style-type: none"> ◆ Coordinate with PPS on needs/scope of work

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 3

SITE MITIGATION PROCESS

Chapter 3 ♦ Site Mitigation Process

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Overview of the Site Mitigation Process

Overview

Public participation is an integral part of DTSC's Site Mitigation Program, by law, regulation and policy.

Public participation ensures that there is two-way communication between the public and the public agencies responsible for making decisions regarding hazardous substance release site investigations and remediation. It ensures that public input and concerns are considered before final decisions are made. It assumes that citizens in a democracy have a right to know about the activities of public agencies and to participate in those activities if they so choose. Public participation assumes that agencies benefit from public input, and thereby make better decisions.

The timing of public participation activities is critical to the success of the program. Early and meaningful involvement also enhances agency credibility with the public, lessening the likelihood of public outrage that occurs if a community feels it has been excluded from the agency decision-making process. Both state and federal laws require this kind of early involvement when hazardous substance release sites are investigated and remediated.

The following subsections provide specific authority and policy for public participation in site mitigation.

Statutory and Regulatory Authorities

CERCLA*	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, known as the Federal Superfund or “CERCLA” [42 U.S.C.A. § 9601 et seq.].
SARA*	Superfund Amendments and Reauthorization Act (SARA), (1986), which amended CERCLA (Pub. L. 99-499).
40 C.F.R.	Title 40 of the Code of Federal Regulations [40 C.F.R.] contains the regulations promulgated by the United States Environmental Protection Agency implementing CERCLA.
NCP*	National Oil and Hazardous Substances Pollution Contingency Plan (NCP). Subpart E of the NCP establishes the procedures for responding to releases of hazardous substances, pollutants and contaminants [40 C.F.R., § 300.1 et seq.] The NCP was substantially revised in 1990. See 55 Fed. Reg. 8813, March 18, 1990.
	*NOTE: Besides the public participation activities enumerated in 40 C.F.R., the publication titled <i>Community Relations in Superfund: A Handbook</i> , published January, 1992 by the U.S. EPA lists required and suggested public participation activities relevant to Superfund response actions.
NEPA	The National Environmental Policy Act (NEPA) [42 U.S.C. Sec. 4321 et seq.] establishes an environmental review process that is separate from, but similar to, that under CEQA. However, under NEPA public participation applies only to federal agencies. A project is subject to NEPA when it requires permits, entitlements, or funding from a federal agency; when it is jointly undertaken with a federal agency; or when it is proposed on federal land.
CERFA**	Community Environmental Response Facilitation Act (CERFA), (1992) amended CERCLA to facilitate the rapid identification and return to local communities of clean properties identified in the Base Realignment and Closure (BRAC) process [42 U.S.C.A. § 9620]. CERFA requires public consultation as described in this chapter.
E.O. 12580**	Executive Order 12580, (1987), delegates to different departments and agencies, including Department of Defense and Department of Energy, specific responsibilities which have been assigned to the President under CERCLA/SARA.
FFCA**	Federal Facilities Compliance Act (FFCA) (1992) amended RCRA to waive sovereign immunity to ensure that federal facilities are subject to the requirements of RCRA to the same extent as private parties (See 42 U.S.C.A. § 6901 note).

**NOTE: These sections apply to Military Facilities only

HSA

The Hazardous Substance Account (HSA), (1981 re-authorized 1999) is California's Superfund program. Health & Safety Code, Division 20, Chapter 6.8 [HSC § 25300 et seq.].

HSC Section 25356.1 requires that all remedial action plans are based upon the NCP and spells out public participation requirements that must be met before DTSC issues a final remedial action plan.

HSC Section 25358.7 mandates that DTSC provide any person affected by a removal or remedial action the opportunity to participate in DTSC's decision-making process regarding that action.

HSC Section 25358.7.1 allows an affected community to establish a community advisory group to review any response action and comment on the response action being conducted in that community.

HSC Section 25358.8 establishes that a community advisory group may request in writing that a responsible party(ies) funds a technical assistance grant for the purpose of providing technical assistance to the group.

ERAP

The Expedited Remedial Action Program (ERAP) was established in Chapter 6.85 of the Health and Safety Code. Entitled the "California Expedited Reform Act of 1994" [HSC Section 25396], the Chapter applies to 30 sites that are designated as part of a pilot program to expedite the remediation of contaminated properties. Section 25398.6 (i), specifically details public participation requirements.

CEQA

California Environmental Quality Act (CEQA), (1970, amended in 1993) requires state and local agencies to disclose and consider the environmental implications of their decisions, and to avoid or reduce the significant environmental impacts of their decisions whenever it is feasible. [Public Resources Code § 21000 et seq.].

The State CEQA guidelines, developed by the Office of Planning and Research and adopted by the Secretary for Resources, are binding on all state and local agencies [Title 14, CCR, § 15000 et seq.].

1999 Statutory and Related Policy Updates

State Superfund Reauthorization

In May 1999, Governor Gray Davis signed into law Senate Bill 47 (Sher) that re-authorized California's Superfund program. The bill kept alive all previous public participation requirements for the various stages of investigation and cleanup, and added several new requirements for those sites that fall under the provisions of the law.

HSC Section 25358.7 (a) states: "The department or regional board, as appropriate, shall take the actions specified in this section to provide an opportunity for **meaningful** (emphasis added) public participation in response actions undertaken for sites listed pursuant to HSC Section 25356."

When performing a response action (removal or remedial action) as defined in HSC Section 25323.3, general provisions of the law [HSC Section 25358.7] require DTSC or the regional water quality control boards to:

- ◆ Provide any persons affected by a response action (removal or remedial action) with the **opportunity to participate** in the decision-making process;
- ◆ Provide **access to information** which DTSC and the regional water quality control boards are required to release under the California Public Records Act;
- ◆ Provide **fact sheets**, based on the expressed level of public interest, about plans to conduct the major elements of the site investigation and response action(s). (This section also requires that fact sheets "present relevant information in non-technical language...detailed enough to provide interested persons with a good understanding of the planned activities...(and available) in languages other than English, if appropriate.")
- ◆ Provide interested parties with **notification of public meetings**; and
- ◆ Provide interested parties the **opportunity to attend** public meetings.

HSC Section 25358.7 (b) requires DTSC to conduct a **baseline community survey**, for listed sites as defined in HSC Section 25356 (b), at the earliest stages of the project. The purpose of the survey is to inform the public of the existence of the site and DTSC's plans for the site, and to solicit and evaluate public concerns.

HSC Section 25358.7 (c)(5) states that based upon the survey, DTSC **shall provide opportunities for public involvement** at key stages of the response action process. Key stages include the health risk assessment, the preliminary assessment, the site inspection, the remedial investigation, and the feasibility study. Further more, DTSC is required to **notify the community** if it decides that public meetings or other opportunities for public comment are **not** appropriate at these stages.

HSC Section 25358.7 (d) requires DTSC to **develop and make available** to the public a schedule of activities for each site where remedial action is expected to be

taken, and to **make available** to the public **any** plan provided to DTSC by the responsible party unless otherwise excluded.

HSC Section 25358.7 (e) requires DTSC to **incorporate or respond in writing** to the advice of the community when making decisions regarding the methods to be used for removal or remedial actions.

The law also provides the public with broader opportunities to become involved in DTSC's decision-making process. These provisions include:

Community Advisory Group

HSC Section 25358.7.1 gives communities the opportunity to form a Community Advisory Group (CAG). The CAG is designed to give the community the opportunity to review any response action proposed by DTSC. DTSC must assist in the formation of the CAG, and must also "regularly communicate and confer as appropriate" with the CAG. In addition, DTSC is required to advise local environmental, regulatory and other appropriate local agencies about planned response actions, and provide them with the opportunity to comment.

If DTSC receives a petition signed by at least 50 members of the community, or a resolution adopted by the legislative body for the community (usually the city council or board of supervisors), DTSC may circulate a notice of intent to create a CAG to the mailing list, and publish that notice in a newspaper of general circulation. The notice shall indicate:

- ◆ DTSC has received a petition or resolution asking for a community advisory group;
- ◆ The site name and location;
- ◆ The type of contamination (if known);
- ◆ A brief description of the duties expected of a CAG member;
- ◆ Information on how to obtain an application for CAG membership; and
- ◆ Any deadline to apply for CAG membership.

DTSC may distribute applications to those expressing an interest in CAG membership, collect submitted applications, and form a selection committee consisting of representatives of the petitioners, the local governing agency and other representatives as appropriate and necessary. The selection committee's sole purpose is to review applications and appoint CAG members. The selection committee will be disbanded after appointment of the CAG members.

To the extent possible, the CAG shall reflect the composition of the affected community and the diversity of interests of the community, including:

- ◆ Persons owning or residing on property located near the site or in an adjacent community. This excludes the responsible party if the responsible party is a property owner. Section 25358.1 (c)(3) defines the responsible party's participation as only providing information and technical expertise;

- ◆ Members of the business community;
- ◆ Local political or government representatives; and
- ◆ Members of local citizen, civic, environmental or public interest groups.

DTSC, the regional water quality control board, local environmental agency representatives and the responsible party may not participate in a CAG as members, but should be present to provide this information and technical expertise. Information can take several forms. In general many of the CAG's questions can be answered verbally at the meeting, while others may require more research. Typically, CAG members require written materials and documents to help them better understand the site. Because this need will vary from site to site, the Project Manager and Public Participation Specialist should seek input on this early on. In any case, DTSC should make every effort to ensure that the CAG has its written and verbal informational needs met. One issue that may arise out of this discussion is the cost associated with the CAG's operation. DTSC staff members should ensure there is an understanding as to who will pay for reproduction of printed materials, cost of meeting room rentals, etc. While DTSC funds are not available for these purposes, assistance may be available through the responsible party, a local agency, or a non-profit group such as the chamber of commerce. Use of electronic information may greatly ease the costs. It is recognized that some communities may seek more than DTSC's technical expertise. CAGs may want to hire a third party technical expert to assist them in understanding technical issues (see subsequent section on Technical Assistance Grants).

A CAG is not intended to usurp the authority or functions of a Restoration Advisory Board or Technical Review Committee formed at a military base, nor should it affect the status of citizens' advisory groups in existence prior to the signing of SB 47.

If DTSC receives a petition and a resolution, or two petitions from community groups, DTSC may convene a panel composed of a DTSC representative and representatives from each interested group to determine the best alternative for creating a CAG. If an agreement cannot be reached, DTSC shall decide on the best alternative and inform all interested parties. This determination shall be based on when the petitions/resolutions are received, the level of impact that the remedial action will have on a petitioner or legislative body, community interest and other relevant factors. Following DTSC's recommendation, if a petitioner is interested in forming a separate CAG, it can do so.

Community Services Offices

HSC Section 25358.7.2 (a) required DTSC to establish two Community Services Offices (CSO) by July 1, 2000. The function of these offices is to **facilitate communication among the department or regional board, the responsible parties, and the affected community** at sites where investigative or remedial actions are taking place. The Public Participation Unit within each region serves as the Community Service Office for that area.

The CSOs will also assist Community Advisory Groups. More specifically, staff assigned to a CSO will be able to assist a CAG in its formative process, and provide broad information about DTSC regulations, guidance and policy, as well as other general information. The Public Participation Specialist and Project Manager assigned to each site, rather than the local CSO staff, will provide the CAG with site-specific information.

Technical Assistance Grants

HSC Section 25358.8 allows a CAG to request a Technical Assistance Grant (TAG) from the responsible party(ies). The purpose of these grants is to provide funding for the CAG to hire a technical expert to provide technical expertise to the CAG. A responsible party is not mandated to fund the TAG request, and the selection of the technical expert should be made utilizing federal EPA guidelines, which can be found at: www.epa.gov/fedrgstr/EPA-GENERAL/2000/October/Day-02/g24047.pdf.

Roles and Responsibilities

Public participation is required by law and is critical to the success of the Site Mitigation process. All DTSC staff share responsibility for public participation. The Public Participation Specialist serves as both an advisor and an overseer of public participation activities at a site. It is necessary for the Public Participation Specialist and Project Manager to meet and determine specific responsibilities for public participation activities at a site, i.e., who will compile the mailing list; who will compose the first draft fact sheet, etc.

The Project Manager is responsible for making technical decisions and providing public participation support. The Public Participation Specialist is responsible for making all decisions regarding public participation in consultation with the Project Manager, and for ensuring that all public participation activities are carried out according to community need, DTSC policy, regulations and statutes. This responsibility may be delegated to the Project Manager when public participation resources are inadequate.

Public Participation Supervisor

The Public Participation Supervisor is responsible to:

- ◆ Ensure that all applicable Federal and State laws, regulations, and directives regarding public participation for site mitigation are executed at all hazardous substance release sites in California;
- ◆ Advise DTSC Site Mitigation managers (Unit Chiefs, Branch Chiefs, Division Chiefs) on matters pertaining to public participation;
- ◆ Manage the public participation workload and budget, and provide supervision and support; and,
- ◆ Manage the administrative support for the Public Participation Branch.

Public Participation Specialist

A Public Participation Specialist works closely with each site Project Manager, and is responsible to:

- ◆ Identify requirements and plan appropriate public participation activities and techniques;
- ◆ Monitor and, if resources are available, initiate public participation activities being conducted;
- ◆ Serve as an advisor to Project Managers, Unit Chiefs, and Branch Chiefs on issues of community concern and involvement;
- ◆ Elevate critical public participation issues to the Public Participation Supervisor;
- ◆ Ensure that all public participation requirements of CERCLA, SARA, NCP, H&SC and DTSC policy are being met; and,
- ◆ Provide direct input and oversight, as appropriate, to ensure that the community outreach program is effective in achieving the intent of the HSC, CERCLA, and the NCP public participation provisions.

NOTE: The Public Participation Specialist may be assigned to coordinate all public participation activities at the more complex and controversial sites while the Project Manager has review and approval responsibilities for technical activities. In all cases, the Public Participation Specialist has final review and approval for completeness and quality of public participation activities and documents, while the Project Manager is responsible to ensure all technical information in the public participation document is accurate.

- Project Manager** The Project Manager manages and oversees all technical activities conducted at the site. In addition, the Project Manager is responsible to:
- ◆ Coordinate with the Public Participation Specialist assigned to the project to ensure that appropriate public participation requirements of CERCLA, SARA, NCP, HSC and DTSC policy are fulfilled;
 - ◆ Be familiar with all required and optional public participation activities, and must be prepared to initiate and manage those activities throughout the site mitigation process, if Public Participation Specialist resources are unavailable; and,
 - ◆ Consult regularly with the Public Participation Specialist assigned to the project and ensure the Public Participation Specialist is kept apprised of all technical aspects of the project in which the public may have interest.
-

Responsible Party (RP) Public participation includes many activities for which responsible parties and their contractors must provide support. Some activities involve routine assistance in ongoing site work; others involve behind-the-scenes preparation; and still others may require specific expertise, such as presenting sampling results or discussing engineering plans. Consultants may assist with conducting community interviews and preparing Public Participation Plans. Consultants should ensure that technical information is accurate and understandable. The amount of consultant assistance that is required and the division of responsibility between an agency and the consultant will vary significantly from site to site. All public participation work performed by responsible parties and their consultants must be reviewed and approved by the Public Participation Specialist prior to its release to the community. The Public Participation Specialist and the Project Manager should work closely with the responsible party when delegating tasks to consultants to ensure consultants are given clear work directives.

The Site Mitigation Process

The following steps are listed in the ideal configurations. Not all projects will follow this process, however the requirements should apply regardless of the order.

Site Screening

DTSC's Site Screening is an initial review of available information used to determine if a potential release site identified during discovery requires action. Site mitigation staff collect and review information to determine whether known or potential hazardous substance contamination exists.

Preliminary Endangerment Assessment

A Preliminary Endangerment Assessment (PEA) is conducted to determine whether current or past chemical use practices have resulted in the release or threatened release of hazardous substances that may pose a threat to public health and/or the environment. The PEA is submitted to DTSC to determine if further action is necessary.

The objectives of the PEA are to:

- ◆ Determine if a release or potential for release exists at the site and delineate the general extent of the contamination;
- ◆ Estimate the potential threat to public health and/or the environment;
- ◆ Determine if an expedited response action is required;
- ◆ Determine data gaps following an initial scoping to identify remedial action strategies;
- ◆ Scope for future actions including the need for no further action; and
- ◆ Assess the informational needs of the community.

Public Participation requirements:

- ◆ If during a PEA, it becomes clear that the site will be listed, then a **Baseline Community Survey** is conducted to inform the public of the existing site and DTSC's intent to investigate. The survey is also used to determine the level of public interest, to solicit and evaluate concerns, and to identify public involvement needed. **(Note: A Baseline Community Survey is required for sites that are "listed" pursuant to HSC Section 25356, and school sites where it is contemplated that further remedial investigation is required following the PEA. Chapter 6.8, HSC Section 25358.7 (b) states that DTSC shall conduct the Baseline Community Survey "as soon as possible" after taking an action to investigate or remediate a "hazardous substance release site").**
- ◆ Community profile. **A community profile must be submitted with the PEA. Consult the Public Participation Specialist to discuss the profile requirements.**
- ◆ For potentially high interest sites, consider community notification such as a fact sheet, letter, public notice or meeting.

No Further Action

At the conclusion of a PEA, it may be determined that no further response action is necessary for sites that do not pose a threat to public health and the environment. Prior to issuing a “No Further Action” determination, DTSC must be shown proof that the property owner has been notified. [H&SC Section 25355.8].

Public Participation requirements:

- ◆ On potentially high profile sites, the DTSC project manager consults with the public participation specialist and utilizes the community profile to determine if public involvement or notification activities are necessary.

Remedial Investigation and Feasibility Study

A technical work plan, known as the Remedial Investigation/Feasibility Study (RI/FS) Work Plan (Note: This is sometimes separated into two documents), is developed to investigate site contamination. During the Remedial Investigation, extensive sampling and analyses are performed to determine the nature and extent of the site contamination. Potential remedies are selected and evaluated in the Feasibility Study. (Note: A risk assessment sometimes accompanies the RI/FS document(s). From a community perspective, this is one of the most important aspects of the cleanup process. Every effort should be made by DTSC to ensure the community understands the purpose of a risk assessment (which, simply put is an evaluation of the potential health risk associated with a particular cleanup alternative, rather than a statement of past risk or a study of existing health problems within a community).

Note: The Remedial Investigation is a critical point in the Site Mitigation process where close coordination between the Project Manager and the Public Participation Specialist is essential. Project Managers must consult the Public Participation Specialist prior to the beginning of the RI to discuss the Public Participation Plan requirements.

Public Participation activities for listed sites:

For sites listed pursuant to H&SC Section 25356, and where a Remedial Action Plan (see definition in following section) is anticipated the following public participation activities **shall be conducted as soon as possible after DTSC takes an action to investigate or remediate a site, and must be closely coordinated with the Public Participation Specialist:**

- ◆ Prepare and distribute a **Baseline Community Survey**, [Section 25358.7 (b)], utilizing a transmittal such as a letter or fact sheet. When the survey results show community interest, DTSC shall provide additional fact sheets. The initial contact with the community, in particular those living in close proximity with the site, (whether a letter or fact sheet), provides introductory information about the site and the remediation process. The transmittal letter or fact sheet shall be made available in languages other than English, if appropriate the survey can help identify sensitive uses and population. [Section 25358.7 (c)(2)];
- ◆ If, based on the Baseline Community Survey, the Public Participation Specialist in consultation with the Project Manager determines that no public participation activities are appropriate for the health risk assessment, preliminary assessment,

remedial investigation and feasibility study, then a notice to the affected community is required. [H&SC Section 25358.7 (c)(5)]. Notification can be in the form of a letter, fact sheet or public notice, based on the recommendation of the Public Participation Specialist.

- ◆ Conduct **community interviews** [40 CFR § 300.430(c)(2)(I)];
- ◆ Prepare (with community involvement) a **Public Participation Plan**,

before starting fieldwork for the RI. Consider placing the documents on DTSC's web site. The Public Participation Plan contains the site-specific community involvement strategies and is made available to the public during the early phases of the RI/FS [40 CFR § 300.430(c)(2)(ii)(A-C)];

- ◆ Fact sheets shall be distributed to the site mailing list based on the level of interest regarding plans to conduct the major elements of the site investigation and response action. The fact sheet shall be in non-technical language, be translated into other languages as appropriate, and provide information on the planned activities.
- ◆ Plan and conduct **community meetings and/or workshop(s) or open houses** if necessary;
- ◆ Establish **information repository(ies)**; and
- ◆ Comply with the National Contingency Plan.

Draft Remedial Action Plan

The Draft Remedial Action Plan (Draft RAP) contains a summary of the Remedial Investigation and Feasibility Study, a summary of the health risk assessment, and presents the proposed remedy for the site. The Draft RAP is prepared concurrently with the required California Environmental Quality Act (CEQA) documents.

The Project Manager and Public Participation Specialist work closely to inform the public about the Draft RAP and CEQA document, and to obtain public comment.

Required Public Participation activities:

- ◆ Hold a 30-day minimum **public comment period**. A Draft RAP, and the companion CEQA compliance document (where applicable) must be public noticed for a minimum of 30 days. If the CEQA document includes an Environmental Impact Report, the public comment period is a minimum of 45 days. When the CEQA public notice period is 45 days, the Draft RAP is also public noticed for 45 days. Consider placing the documents on DTSC's web site. [CFR § 300.435(C)(ii)], HSC Section 25356.1(e) (1); 42 U.S.C.A. 9617(a)(2); 300.430(f)(3)(i)(C)];
- ◆ Ensure Draft RAP and supporting documents are in the local public repositories. [CFR Section 300.430];
- ◆ Provide **public notice** in a language appropriate to the affected community (as determined by the community assessment), of the availability of the Draft RAP and the CEQA documents in a newspaper of general circulation [HSC

25356.1(e)(2); 42 U.S.C.A. § 9617 (a) and (d); 40 C.F.R. § 300.430(f) (3)(i)(A)] (and on DTSC's web site);

- ◆ Prepare and distribute a **fact sheet** to the mailing list in languages appropriate to the affected community. The fact sheet describes the Draft RAP, and announces the public comment period and the public meeting. [HSC § 25358.7(c)(2)];
- .. **Post notices** at the site location [HSC § 25356.1(e)(2)];
- .. **Notify local and affected agencies** (identified in the community assessment) by direct mail. [HSC 25356.1 (e)(2)]. This can be accomplished by mailing the fact sheet to the appropriate contact people at the local and affected agencies, which are identified in the community assessment.
- .. **Notify the owners of property** contiguous to the site (identified in the community assessment) by direct mail. It is suggested that tenants of contiguous properties be notified as well. Note: This can be satisfied by mailing the fact sheet. [HSC § 25356.1(e)(2)];
- ◆ Hold at least one **public meeting** within the community in an appropriate location to discuss and receive public comments on the Draft RAP and CEQA documents [H&S 25356.1(e)(3); 42 U.S.C.A. § § 9613 and 9617(a)(2); 40 C.F.R. § 300.430 (f)(3)(i)(D)];
- ◆ Provide a **taped or written transcript**, including a record of comments received during the public meeting [40 CFR Section 300.430 (f)(3)(i)(E); RAP Policy and Procedure]; and
- ◆ Comply with the National Contingency Plan.

Final Remedial Action Plan

Following the public comment period, DTSC selects the final remedy for the site and must inform the public of the final selected remedy. Any fundamental changes from the remedy proposed in the Draft RAP must be re-noticed for public comment and a public meeting held during the 30-day comment period [H&SC Section 25356.1(f)].

Note: The drafting of the responses to comments received should be coordinated with the Public Participation Specialist. The Public Participation Specialist reviews technical responses to ensure that these responses are easily understandable by the community and to assure that the questions related to community issues are adequately addressed.

Required Public Participation activities:

- ◆ Prepare a written **response to comments** received during the public comment period, [42 U.S.C.A. § 9613 and 9617(b); 40 C.F.R. § 300.430(f)(3)(i)(F)];
- ◆ Prepare and place a **public notice** of the final selected remedy in a newspaper of general circulation, [NCP; 40 C.F.R. §300.430 (f) (6) and DTSC RAP Policy];
- ◆ Re-evaluate the need for further public participation, [40 C.F.R. §300.435 (c)

(1)]; and

- ◆ Consult with the Public Participation Specialist to determine if it is necessary to **update the Public Participation Plan**. [40 C.F.R. §300.435 (c) (1)].
- ◆ Comply with the National Contingency Plan.

(Note: While the California Superfund statute recommends that the Public Participation Plan be updated as necessary, while federal guidance recommends that the Plan be reviewed and revised just prior to the remedial design (if necessary). In general, a public participation plan should be updated when it appears there has been a significant change in the makeup, attitudes, concerns or other characteristic of a community. For most sites that proceed to cleanup in a short period of time, a revision will not be required, in all likelihood. For longer-term projects, a revision is often required.)

Design and Implementation

In the last phase of the remedial process, the cleanup remedy chosen in the final RAP is designed and implemented. Depending on the informational needs and concerns of the community, a variety of optional public participation activities may be performed.

Public Participation activities to be considered:

- ◆ Issue work notifications and/or **fact sheets**. The Public Participation Specialist and the Project Manager work together to determine what method of notification is appropriate and who should receive them. [40 C.F.R. Section 300.435(c)(3)];
- ◆ Hold a **community briefing**, as appropriate [40 C.F.R. § 300.435(c)(3)];
- ◆ Initiate other activities during this process to inform the community of progress at the site;
- ◆ Send a **final letter** at the completion of remediation or certification, describing the final remediation and any ongoing operations or maintenance. This letter is sent to all persons on the project mailing list who have requested to be informed of the project completion; and
- ◆ Comply with the National Contingency Plan.

Removal Action Workplan (RAW)

HSC Section 25356.1 (h) (1) exempts sites from the Remedial Action Plan (RAP) process if the removal action will cost less than \$1,000,000. Instead, a Removal Action Workplan (RAW) is prepared for these sites. RAWs can also be conducted as removal actions or interim remedial actions that are not the final remedy for the site.

Provisions within the law require that DTSC make the local community aware of the site and of the removal action, and that a **community profile** be prepared during the initial stages of the process. [HSC Section 25356.1(h)(1)]. A **Baseline Community Survey** [HSC Section 25358.7 (b)] shall be conducted on all listed sites and used to assess the level of community interest. The survey results are

used in conjunction with the community profile to assist the DTSC Public Participation Specialist, in coordination with the Project Manager, in deciding which public participation activities are necessary. The survey can also be structured to provide DTSC with valuable information such as language needs and the location of sensitive receptors, if another assessment tool is not planned. The Baseline Community Survey also serves to meet the legal requirement to make the local community aware of the site and the removal action.

Required Public Participation activities:

- ◆ Prepare a **Community Profile**;
- ◆ Conduct a **Baseline Community Survey** on listed sites [HSC Section 25358.7 (b)];
- ◆ Notify the community of the site and of any removal actions anticipated by DTSC. [HSC Section 25356.1(h) (1)]. The **fact sheet** or transmittal letter accompanied by the community survey fulfills this mandate; and
- ◆ Develop a site **mailing list** to notify the community.

Public Participation activities which may be required based on Community Profile and Baseline Community Survey results:

- ◆ Develop/Approve a **Public Participation Plan** (with community involvement) for high interest sites. [HSC Section 25358.7 (b)];
- ◆ Distribute a fact sheet to the site mailing list to describe the Draft RAW and announce the public comment period and public meeting (if held). [HSC Section 25358.7 (c) (2)];
- ◆ Hold a **30-day comment period** to solicit comments from the community, if the project has generated interest. Notify the community by placing a **public notice** advertisement in a newspaper of general circulation. Noticing is done concurrent with any required CEQA public notice so only one comment period is held. (Note: This is required to be consistent with the NCP for the purpose of cost recovery.);
- ◆ Hold a **community meeting** if there is community interest; and
- ◆ Prepare a written response to comments [HSC Section 25358.7 (e)].

When a project is submitted, and it is possible the removal action will cost more than \$1,000,000, DTSC must notify the proponent or responsible party that a Public Participation Plan is required. Should the DTSC later determine that the cost is under \$1,000,000, and the site meets the Removal Action Work Plan (RAW) criteria, the Public Participation Specialist, in consultation with the Project Manager will determine what public participation activities will be necessary.

Remedial Action Plan Equivalent

Section 25356.1 requires that all RAPs be prepared pursuant to Section 25350, the NCP, and be based upon all of the factors contained in Section 25356.1(d) (1) through (6). However, DTSC may waive these requirements if the RP prepares a

RAP “equivalent” document that meets all the requirements of Section 25356.1(h)(3). Total cost of the Remedial Action Plan Equivalent must be less than \$2 million.

Public Participation activities:

The public participation activities for a RAP Equivalent are the same as those listed previously in this chapter for a RAW.

Interim Remedial Measures/Removal Actions on NPL or Federal Properties

At any point during the site mitigation process on National Priorities List (NPL) or federal properties, it may be necessary for the protection of public health for DTSC to conduct or require a removal action. For NPL or federal properties the term “removal action” is used interchangeably with interim remedial measure. (Note: For facilities or sites that are California “listed” sites, the public participation requirements in the California Superfund law will also apply.)

Removal action is an action that is taken consistent with the final remedy, but is not the complete remediation of the site. For instance, it might be installation of a “pump and treat” system for groundwater, excavation and disposal of soil, or stabilization of the site to ensure there is no direct contact threat to the public.

On federal properties, or on sites listed on the NPL, a site evaluation and removal action schedules determine the public participation requirements. [NCP § 300.415(n) et. seq.].

Required Public Participation activities:

Requirements for All Removal Actions:

- ◆ Designate a **spokesperson**. (It is DTSC policy that the spokesperson for the media is the Information Officer and the spokesperson to the community is either the Public Participation Specialist or the Project Manager. The Project Manager and the Public Participation Specialist decide at the beginning of each project who will be the primary community spokesperson.);
- ◆ Coordinate **news releases**;
- ◆ **Notify affected citizens**.
- ◆ Establish an **administrative record** as defined in NCP 300.820; and
- ◆ **Notify the public** of the administrative record.

Requirements for an emergency removal action:

- ◆ Designate a **spokesperson**;
- ◆ **Notify affected citizens**; and
- ◆ Establish an **administrative record**.

Requirements for removal actions with a planning period of less than six months:

- ◆ Hold a **public comment period** of at least 30 days from the time the administrative record is made available for public inspection; and
- ◆ Issue a **responsiveness summary**, which must be placed in the administrative record.

Note: The drafting of the responsiveness summary should be coordinated with the Public Participation Specialist. The Public Participation Specialist will assist in reviewing technical responses to ensure that these responses are easily understandable to the community and to assure that the questions related to community issues are adequately addressed.

Requirements for removal actions expected to extend beyond 120 days (if these steps are not already done):

- ◆ Prepare a **community profile**, (or for CERCLA consistency prepare a public participation plan). Determine this on a site-specific basis in coordination with the Public Participation Specialist;
- ◆ Conduct **community interviews** and develop a **public participation plan**;
- ◆ Develop a **mailing list**;
- ◆ Issue **fact sheets** discussing the proposed actions; and
- ◆ Establish an **information repository**, and **notify the community**.

Requirements for removal actions with a planning period of at least six months:

- ◆ Conduct **community interviews** and develop a **public participation plan** before the completion of the Engineering Evaluation/Cost Analysis (EE/CA);
- ◆ Establish an **information repository** in a central location near the site, and notify the community that a repository exists;
- ◆ Publish a **notice of availability** and a description of the EE/CA in a major local newspaper of general circulation;
- ◆ Open a **public comment period** of at least 30 days following the completion of the Engineering Evaluation/Cost Analysis (a 15-day extension must be provided upon timely request); and
- ◆ Issue a **responsiveness summary**.

Note: Fact sheets, small group meetings, an information center and other public participation activities are encouraged for all types of removal actions.

DTSC public participation staff may play a support role when the U.S. Environmental Protection Agency (U.S. EPA) is the lead agency on a non-federal facility site. This may occur when the site is placed on the National Priorities List (NPL), when it is scheduled for listing, or when the U.S. EPA is conducting emergency or interim removal actions at a site.

If involved in these sites, DTSC public participation and technical staff should review and comment on all U.S. EPA public participation documents. DTSC can also provide support during other public participation activities such as community interviews, meetings and hearings. **A clear understanding of roles and responsibilities must be established at the very outset between the staff of both agencies to ensure that information being given to the community is consistent.**

When a site is on the NPL, but DTSC is lead for public participation activities, the Project Manager and Public Participation Specialist should refer to and follow guidelines within U.S. EPA's "[Community Relations in Superfund: A Handbook.](#)"

For a typical remedial investigation/feasibility study, U.S. EPA requirements are as follows:

- ◆ Conduct **community interviews** [40 C.F.R. § 300.430 (c)(2)(I)];
- ◆ Develop of a **Community Relations Plan** (i.e. public participation plan), [40 C.F.R. § 300.430(c)(2)(ii)(A-C)];
- ◆ Establish of an **Information Repository** [42 U.S.C.A. § 9617(d); 40 C.F.R. § 300.430(c) (2)(iii)];
- ◆ Notify the public of the availability of a **Technical Assistance Grant** (TAG) [40 C.F.R. § 300.430(c)(2)(iv)];
- ◆ Establish an **Administrative Record** [42 U.S.C.A. § 9613(k); 40 C.F.R. § 300.815)];
- ◆ Publish a **notice of availability** and brief analysis of the proposed plan in a major newspaper of general circulation;
- ◆ Make the **proposed plan**, and **supporting analysis** and information available in the administrative record;
- ◆ Provide a 30-day **public comment period** for the RI/FS and Proposed Plan [42 U.S.C.A. § 9617(a)(2); 40 C.F.R. § 300.430(f)(3)(1)(C)];
- ◆ Hold a **public meeting** [42 U.S.C.A. § 9613 & 117(a)(2); 40 C.F.R. § 300.430 (f)(3)(I)(D)];
- ◆ Provide a **meeting transcript** [42 U.S.C.A. § 9617(a)(2); 40 C.F.R. § 300.430(f)(3)(I)(E)]; and,
- ◆ **Publish in the Federal Register** a notice of proposed settlement of the Ad-

ministrative Order on Consent or Consent Decree at least 30 days before the agreement becomes final [42 U.S.C.A. § 9622(I); 40 C.F.R. § 300.430(c)(5)(I)];

- ◆ Issue **fact sheets** at key points throughout the site mitigation process.
-

Voluntary Cleanup Program

Historically, DTSC attempted to provide site cleanup oversight to the maximum number of sites having responsible parties or other sponsors who were cooperative and financially able to perform a cleanup according to DTSC standards. Because the number of sites overtaxed DTSC resources, DTSC limited itself to working on sites that presented the highest health and environmental risks. As a result, backlogged or low-threat sites were not immediately addressed. The situation hampered property owners who desired to develop the property or change the land use.

Objective

The objective of the Voluntary Cleanup Program (VCP) is to provide interested parties an alternative to the traditional cleanup program, with an expedited schedule to return property to productive use while protecting public health and the environment. Under the Voluntary Cleanup Program, oversight by DTSC is provided via written agreements between the proponent and DTSC, rather than by unilateral orders. The agreements are legally enforceable. In essence, project proponents (who may be responsible parties) secure staff resources by providing funding.

It is imperative that the project proponent has an understanding of the public participation requirements before the project is initiated.

Therefore, **the Public Participation Branch shall be consulted when agreements are being negotiated with the project proponent in order that the appropriate level of public participation resources is included in the agreement.** Experience has shown that site mitigation projects have a greater risk of becoming controversial if public participation activities are not initiated early and consistently.

As part of the application process for the Voluntary Cleanup Program, a community profile is required. This community profile must be submitted before the voluntary cleanup agreement is signed. The Public Participation Supervisor, on a case-by-case basis, may waive this requirement.

The Public Participation Specialist reviews the community profile and may complete the **Community Interest Evaluation Worksheet.**

Projected public participation costs and hours provided by the Public Participation Specialist and supervisor shall be included in the Voluntary Cleanup Agreement.

Types of Projects

Candidate sites for the Voluntary Cleanup Program may come from the backlogged, relatively low priority sites in DTSC's files. Others may be new sites previously unknown to DTSC. The majority of voluntary cleanup sites will come to DTSC's

attention at the time that DTSC oversight is requested. These projects are usually on a “fast track”, and this is taken into consideration when a public participation strategy is developed. In some cases, fieldwork may already be completed by the time the application is submitted.

Remediation Requirements

Projects under the Voluntary Cleanup Program are subject to the same final remediation goals and requirements as sites being remediated under orders, agreements or DTSC initiative. If the project proponent fails to perform under the conditions of the agreement, DTSC has the option to terminate the agreement. Under certain circumstances DTSC could subsequently pursue an enforcement action, or refer the site to another agency for appropriate action, depending on the nature of the release.

Public Participation activities:

Provided that the site is to undergo a RAP, the same general public participation activities required in the site mitigation process shall apply to all Voluntary Cleanup Program projects. However, certain provisions of Chapter 6.8 may not apply to the site, if it is not listed as per HSC Section 25356 (a) and (b). If a Voluntary Cleanup Program site is listed, DTSC must follow all public participation provisions within Chapter 6.8.

A Voluntary Cleanup Program site that entails a removal action follows public participation activities for a Removal Action Workplan (RAW). See RAW section of this chapter for public participation activities.

School Sites

School sites present unique challenges for DTSC’s public involvement program.

Legislation adopted and codified in 1999 requires school districts utilizing state funds for land acquisition and/or classroom construction to obtain from DTSC, certification that environmental factors on a proposed school site do not present a health risk to students. For many school sites, this is accomplished by an environmental assessment that evaluates past uses of the property and other information. Other sites proceed to a Preliminary Endangerment Assessment (PEA) before obtaining clearance from DTSC. If necessary, a district may choose to conduct a remedial investigation and continue through the site mitigation process. The law requires DTSC to oversee this process. Legislation signed by the Governor in September 2000, further defined the public participation process for the PEA phase of an environmental investigation for a potential school site. If it is determined that the site will undergo a remedial investigation, DTSC must conduct public participation requirements outlined in HSC Sections 25358.7 and 25358.7.1.

Public Participation activities during a school investigation:

Phase 1 Environmental Site Assessment:

No public participation activities are required; however, if there is community interest, DTSC or the school district in coordination with DTSC can provide interested persons with general information regarding the process. This can be accomplished by mailing a fact sheet or letter to interested parties.

Draft Preliminary Endangerment Assessment (PEA):

Prior to commencement of a PEA, the school district shall, with DTSC approval of the language, distribute a notice to residents and landowners in the immediate area of the proposed school site. The notice should include a description of the PEA process, any field work that may be involved in the process along with any dates and times associated with the field work, an approximate time line of the PEA, and appropriate contact numbers.

Once the draft PEA is sent to the school district, and the school district elects to proceed with the project, a public hearing is held by the school district to receive public comment on the CEQA document for the school and the draft PEA. If requested by the school district, DTSC may consider the following public participation activities:

- ◆ Assist the school district in developing a fact sheet or other informational notice describing the findings of the final draft PEA, for publication in a newspaper of general circulation at the commencement of the public comment period for the CEQA document. The hearing should be noticed in a manner consistent with the district's notification requirements;
- ◆ Consider providing support at the school district's public hearing, particularly in relation to a public discussion of the final draft PEA.

Based upon comments obtained at the public hearing, DTSC is required to approve or disapprove the final PEA within 30 days of the district's approval of the CEQA document.

Remedial Investigation

If DTSC determines from the PEA that a site must undergo a Remedial Investigation (and the school district still plans to proceed with future school construction), the following public participation activities are required:

- ◆ Conduct a **Baseline Community Survey** with the conclusion of the PEA, and prior to the Remedial Investigation.
 - ◆ Conduct required and recommended public participation activities outlined earlier in this chapter for each technical phase of the project, keeping in mind the special sensitivity of remediating school sites.
-

ERAP Projects

The “California Expedited Reform Act of 1994” [Chapter 6.85, HSC Section 25396] established the Expedited Remedial Action Program (ERAP). The provisions of this Chapter are applied to sites that are designated as part of a pilot program to expedite the remediation of contaminated properties.

A key incentive to the applicants for this voluntary program is that the site remedy is based on the permanent land use and removes a preference toward treatment or removal. A cleanup may rely on land use controls as an acceptable remedial measure. Site responsibility is delegated to the project proponent, which reduces DTSC’s need to oversee work. However, public participation remains central to this program since compliance with DTSC’s public participation manual is a statutory requirement.

A formal arbitration process is used in the ERAP to provide the opportunity for timely dispute resolution. The public and affected community can invoke arbitration to resolve disputes over site certification and the selected remedy, when the site’s responsible parties include orphan shares as defined in HSC Section 25396(m).

A party that wants to remediate a site using the ERAP submits an application to DTSC. After reviewing the application, DTSC determines if the project meets the statutory criteria for ERAP. The application is screened by DTSC and is then referred to the California Environmental Protection Agency, Site Designation Committee for selection to the ERAP. The public has an opportunity to speak at the Site Designation Committee hearing. Within 90 days of selection, DTSC meets with all potentially responsible persons, and any affected agencies to discuss the requirements for the Site Investigation and public participation. When appropriate, public meetings may be scheduled in conjunction with the site conference to review upcoming activities.

Within 60 days of a site being designated, a site conference is held to outline the requirements for conducting a Site Investigation and public participation.

During the site conference, the Public Participation Specialist and the Project Manager discuss the completed community profile and Community Interest Evaluation Worksheet with the project proponent to develop a public participation strategy based upon the level of community interest.

Site investigations are technically equivalent to the Remedial Investigation and Feasibility Study.

Public Participation activities:

- ◆ The project proponent must submit a **community profile** (or equivalent information approved by the Public Participation Specialist and Project Manager) with the Preliminary Endangerment Assessment (PEA). A Community Interest Evaluation Worksheet is also submitted by the project proponent. Public Partici-

pation staff must review and approve the community profile and Community Interest Evaluation Worksheet before DTSC makes a recommendation to the Site Designation Committee.

- ◆ Complete **community interviews** and a **Public Participation Plan**. The scope of the plan is discussed during the site conference. Many sites will not require an extensive Public Participation Plan, while others will require several interviews and a large amount of research. The Public Participation Specialist applies flexibility to this process;
- ◆ Establish an **information repository**;
- ◆ Develop **fact sheets** in a language appropriate for the affected community, and distribute appropriately;
- ◆ Develop a **mailing list** early in the process and update regularly;
- ◆ Conduct **meetings** as required throughout the project, depending on the level of community interest;
- ◆ Conduct other activities as necessary, depending upon the level of community interest; and
- ◆ Implement all public participation requirements for a draft Remedial Action Plan when the project reaches this phase, (refer to the RAP section of this chapter).

At the time DTSC proposes the allocation of liability for an ERAP site, provide written notice to Responsible Parties, the affected community, and the public at large. The notice must include information about the amount of orphan share costs that will be paid by the Site Remediation Trust Fund account. The notice must be coordinated with the public notice for final draft Remedial Action Plan.

Federal Facilities

Roles and Responsibilities

The successful development and implementation of public participation programs at federal facilities require the coordination of several entities. These entities include the federal facility and regulatory agencies such as DTSC, U.S. EPA, the Regional Water Quality Control Boards, local air boards, county health organizations, and other local agencies as well as environmental interest groups and the affected public. The policies and procedures described in this section of the manual are to ensure close coordination of these entities while conducting public participation activities in support of the Installation Restoration Program. Most of the federal facilities dealt with by DTSC are military facilities, therefore, in the following sections, the term “military” applies to facilities where the Department of Defense is responsible for the investigation and clean up. However, the same requirements apply to other federal facilities.

Military Facility Role

Under §300.5 of the National Contingency Plan (NCP), the military facility is the lead agency responsible for planning and implementing appropriate response

Military Facility Project Team

actions, including public participation. The military facility's public participation effort must be in accordance with CERCLA §§ 113 and 117, the California Health and Safety Code (HSC), Chapter 6.8, the NCP, a Federal Facility Agreement/Federal Facility Site Remediation Agreement (FFA/FFSRA) and other relevant California and U.S. EPA policies and guidance documents. Note: If the military facility is a "listed" site according to HSC Section 25356 (a) and (b), the public participation requirements outlined in HSC Section 25358.7 also apply and must be implemented.

The military facility is responsible to provide DTSC project staff, including the Public Participation Specialist, with necessary access to the military facility subject to any statutory and regulatory requirements necessary to protect national security or mission-essential activities. Access shall be allowed at reasonable times for the Public Participation Specialist to consult with the military facility and to oversee public participation activities. These may include project and public meetings, community interviews, and fieldwork. DTSC Public Participation Specialist coordinates with military facility staff for general access and provides the facility with reasonable notice to enable the facility to arrange for escorts if needed.

The Military Project Manager and public affairs staff or designated consultants work cooperatively with the DTSC Public Participation Specialist to ensure open communication and teamwork. All are responsible to contribute to an effective public participation process as required under CERCLA, the California Health and Safety Code, the NCP and relevant California and U.S. EPA policies and guidance documents. The designated military facility project team prepares draft documents including, but not limited to, a community relations plan, interview questions, a list of interviewees, mailing lists, fact sheets, and public notices. These documents are circulated and shared timely with the DTSC Public Participation Specialist for review, comment and final edits.

DTSC Role

DTSC Public Participation Specialist - The Public Participation Specialist shares and coordinates information with the military facility staff so that the public participation plan is modified, as needed to address emerging or changing community needs.

The DTSC Public Participation Specialist works cooperatively with military facilities to ensure open communication and teamwork. He/she provides direct input and oversight to ensure that the military facility's community relations program achieves the intent of state and federal requirements. The Public Participation Specialist identifies, plans, monitors and, if resources are available, initiates public participation activities as needed. The Public Participation Specialist reviews, comments on, and approves all military facility public participation materials including, but not limited to: the community profile, repository locations, community relations plan interview questions, list of interviewees, community relations plan and revision(s), mailing lists, fact sheets, public notices, and proposed plans.

When developing a public participation plan and associated materials, adequate review time must be allowed in the overall project schedule to enable the Public Participation Specialist to provide input and discuss DTSC's comments with military facility staff.

The DTSC Public Participation Specialist, with concurrence of the DTSC Project Manager, may periodically conduct random interviews, phone contacts, meeting evaluations and informal discussions with local community members and interest groups to evaluate the effectiveness of the military facility public participation program. The DTSC's Public Participation Specialist will determine:

- ◆ Does the Public Participation Plan identify and address the community's concerns?
- ◆ Is there an effective two-way flow of information between the military facility and the community?
- ◆ Are there emerging concerns or issues that may need to be addressed?

DTSC's Public Participation Specialist also:

- ◆ Advises the DTSC Project Manager of all public participation activities;
- ◆ Facilitates Restoration Advisory Board (RAB) and other public meetings, if requested by the facility or RAB co-chairs;
- ◆ Conducts rehearsals and debriefings for DTSC staff working on the project; and
- ◆ Reviews, comments on, and approves public participation materials.

DTSC Military Facilities Project Manager - The Project Manager oversees all technical activities conducted at the site/facility. In addition, the Project Manager is responsible to work cooperatively with military facility staff to ensure open communication and teamwork.

The Project Manager ensures that public participation requirements under CERCLA, RCRA, CEQA, the NCP, HWCL, and DTSC policy are fulfilled. Additionally, the Project Manager must be familiar with the required and optional public participation activities, and must be prepared to oversee and manage the public participation activities throughout the technical work phases of the site/facility if a public participation specialist is not available. It is important that the Project Manager consults regularly with the Public Participation Specialist and keeps the core project team apprised of project activities.

Interagency Coordination

The principal regulatory agencies overseeing military facility public participation activities are DTSC and U.S. EPA.

When a military facility is listed on the NPL, CERCLA §104 (a) (2) and the NCP provide that U.S. EPA is the lead regulatory agency. Accordingly, EPA's Office of

Community Involvement is responsible for providing regulatory oversight. All actions taken by the military facility, including conducting the public participation program, must be consistent with all U.S. EPA guidelines, rules, and policies (see U.S. EPA's [Community Relations in Superfund: A Handbook](#)).

For a military facility that is not listed on the NPL, CERCLA §104 (a) (4) provides that DTSC will serve as the lead regulatory agency for public participation policies and procedures oversight. DTSC strictly follows CERCLA public participation mandates for remediation at military facilities, as provided for in HSC § §25356.1, 25358.7.1 and 25159, and is modeled after U.S. EPA's CERCLA requirements.

The military facility is the lead agency for implementing the public participation provisions of the Installation Restoration Program. Working closely with regulators and the community helps to ensure success for the program.

Another federal agency that may play a key role at military facilities is the Agency for Toxic Substances and Disease Registry (ATSDR), of the U.S. Public Health Service. ATSDR work in a community includes formation of a Community Assistance Panel (CAP), and conducting and publishing the results of a Public Health Assessment (PHA) and the Public Health Study (PHS). ATSDR activities may raise community interest particularly if the PHA identifies significant public health hazards. ATSDR, military facility and regulatory agency coordination help ensure the studies and fact sheets are available to the CAP for review and comment, and to the public.

Interagency Agreements

Section 120 of CERCLA provides for negotiation and enforcement of interagency agreements between the military facilities, state or federal regulatory agencies. These agreements are known as Federal Facility Agreements (FFA) for EPA-lead, NPL sites or Federal Facility Site Remediation Agreements (FFSRA) for DTSC-lead, non-NPL sites. The FFA/FFSRA includes the basic requirements for public participation activities to be conducted at a military facility, including the development of a Public Participation Plan, also known as a Community Relations Plan.

The FFA/FFSRA is the plan to investigate and clean up contamination at a military facility. It establishes the procedures and enforceable schedules for specific response actions. The FFA/FFSRA specifies each party's responsibilities, provides a dispute resolution process, and provides Department of Defense (DOD) funding for regulatory oversight. The FFA/FFSRA becomes effective upon the signature of the negotiating parties. The FFA/FFSRA contains a list of documents, called "primary documents", that must be submitted to DTSC and/or U.S. EPA for review and comment. The Public Participation Plan is a primary document. The following activities are required when an FFA/FFSRA is signed:

- **Public Comment Period** — The military facility makes the FFA/FFSRA available to the local community for a public comment period of at least 45 days after it is signed. The military facility notifies the public of the availability of the signed FFA/FFSRA in local information repositories and the public comment period. The notification is published as a display advertisement in at least two

local newspapers of general circulation. Refer to page # for more information about display advertisements.

- **Public Meeting** — The military facility holds a public meeting if the written comments received during the public comment period indicate significant concern about the agreement. The military facility publishes a display advertisement in at least two local newspapers of general circulation two to four weeks prior to the meeting announcing the location, date, and time. The military facility should provide for an official transcript of the public meeting. Copies of the transcript are provided to all signatories of the FFA/FFSRA, placed in the Administrative Record and all information repositories for the site.
- **Response to Comments** — If public comments result in the need to revise the FFA/FFSRA, the relevant section(s) is renegotiated. Public comments are addressed in a written Response to Comments prepared by the military facility and reviewed by the parties to the agreement. Copies of the Response to Comments will be placed in the Administrative Record and all site information repositories.

Removal Action
Workplan (RAW)

Refer to RAW section of this chapter for description and public participation activities.

No Further
Remedial Action
Planned

At the conclusion of the Site Investigation (SI), it may be determined that No Further Remedial Action is Planned (NFRAP) for sites that do not pose a threat to public health and the environment. These sites are eliminated from the Installation Restoration Program. DTSC requires the military facility to notify the public of the disposition of all sites investigated during the Installation Restoration Program.

Public Participation activities:

- ◆ Issue a fact sheet or public notice to announce any NFRAP. Information concerning a NFRAP site can be included in public notices or fact sheets issued to inform the public of other IRP activities such as removal actions, Restoration Advisory Board (RAB) meetings, and remedial actions. A separate public notice or fact sheet is not required.

Technical Review
Committee

CERCLA Section 211 provides for the establishment of Technical Review Committees (TRC) at military facilities. The purpose of the TRC is to meet regularly to review and discuss actions planned or being taken to address contamination at military facility sites. The TRC provides interested parties with an opportunity to discuss and provide input to decisions about site activities.

Meetings are generally held quarterly although more frequent meetings may be needed based on site-specific interest or ongoing site activities. A TRC is made up of one or more community representatives from the affected community(ies), appropriate state and local officials, and representatives of the military facility, U.S. EPA, and DTSC.

Restoration Advisory Board

On September 9, 1993, the Department of Defense (DOD) issued guidance entitled “Fast Track Cleanup at Closing Installations,” to expedite the cleanup and reuse of closing military bases. A key element of the DOD guidance addresses improving public involvement opportunities in the base clean-up program, including establishment of a Restoration Advisory Board (RAB) at each closing or realigning base.

A RAB provides a broad focus for community input and participation in all aspects of base cleanup and conversion. A TRC that exists previous to formation of a RAB at a closing base where property is transferred to the community may be converted to a RAB.

A RAB brings together members who represent the diverse interests of the local community. The RAB ensures that all stakeholders have a voice and can actively participate in the review of base clean-up documents and plans. Stakeholders provide input in the decision-making process in an effort to participate in the cleanup and conversion of the base. A RAB supplements the CERCLA-required public participation process, but does not replace it.

DTSC recommends that military facilities prepare for RAB meetings by holding rehearsals. The DTSC Public Participation Specialist may be available to assist with these rehearsals, as workload priorities allow.

Emergency Response/Rapid Program Overview

The Emergency Response Program

When an emergency incident occurs at a facility that handles hazardous materials/waste, DTSC may be asked by local agencies and/or other state agencies to provide technical assistance. Sometimes, because of the proximity of these facilities to a community, public participation efforts are also necessary. Because of DTSC’s experience and expertise, the Public Participation Branch may become involved during and after the incident.

The RAPID Program

A second emergency incident program under which the Public Participation Branch may become involved is the Railroad Accident Prevention and Immediate Deployment (RAPID) Program. This program creates a RAPID Force that consists of State departments and agencies. The RAPID Program was formed to assist local agencies at large-scale hazardous material releases resulting from surface transportation accidents. The Public Utility Code (PUC) § 7718(b) (statutes of 1991) required DTSC to develop a RAPID Plan to establish how the State agencies respond to assist local agencies and work cooperatively to mitigate a hazardous spill.

Mission of the RAPID Program

The mission of the RAPID Program is to provide immediate, on site technical assistance in an organized and predictable manner to State and local agencies at surface transportation incidents involving large-scale releases of hazardous materials, where the resources of multiple State agencies are needed and/or where

multiple State agencies have statutory responsibilities in order to minimize the potential damage to the public health and safety, property and environment.

Public Participation Objective during an Emergency Incident

The objective of public participation during any type of emergency incident is to open and maintain two-way communications between the State agencies and communities involved in the incident. **Close coordination between the project staff and the Public Participation Specialist is crucial to ensure that the proper communication strategies are implemented.**

Responsibilities

Public Participation Specialist — The public participation function in a RAPID (or emergency) incident is within the Public Information Unit, which reports directly to the Incident Commander. The Public Participation Specialist's primary mission is to establish communication links with key community leaders, groups and affected individuals. Using a variety of communication tools such as community meetings, informational flyers, fact sheets, and individual contacts, the Public Participation Specialist keeps the community up to date on the incident, allowing the community to express needs, health concerns, etc. During a RAPID exercise, the Public Participation Specialist may also serve as the spokesperson for the incident commander since the media is often the primary—and sometimes sole—source of information for many in the community during an emergency. This is a variation from the typical responsibilities of the Public Participation Specialist. The Public Participation Specialist should consult with his/her supervisor before reporting to the field.

Due to their proximity to the affected area and probable familiarity with the community, a regional Public Participation Specialist is likely to be among the first responders to an emergency incident. The regional Public Participation Specialist maintains contact with his/her supervisor, who in turn maintains contact with the Public Participation Unit in Headquarters. If RAPID is invoked, headquarters and regional public participation staff evaluate the situation to determine the need for headquarters' on-scene participation. This decision may also be made in coordination with technical staff present at the scene. If headquarters staff is dispatched, one Public Participation Specialist is designated lead, and coordinates activities and shares information with other Public Participation Specialists and technical staff. The lead Public Participation Specialist at the scene coordinates efforts with the Public Information Officer (if one has been named), the Incident Commander, and the RAPID team leader, if RAPID has been invoked.

Generally, the Public Participation Specialist sent to the scene goes to the evacuation center, or a center where the community is likely to congregate. Public participation staff very rarely goes on the site or cross into the exclusion zone. If it is necessary to go on the site, the Public Participation Specialist must have proper health and safety training and equipment, must have sufficient reason for entering the restricted zone, and supervisor approval.

Technical staff — During an emergency incident, most technical staff is involved in emergency measures to protect human health and the environment. Once the

immediate threat is over, however, technical staff is utilized to assist in answering questions and developing information for flyers and fact sheets. Technical staff is also utilized at public meetings, open houses, and any hearings that are held in response to the incident.

Toxicologists — One of the most pressing public concerns in an emergency incident is the long- and short-term health effects. Toxicologists play a key role in the development of flyers and fact sheets, and are available to answer questions from the community. Toxicologists work with Public Participation Specialists to prepare for and participate in community outreach efforts such as community meetings.

Public Participation activities during emergency incidents:

Informal Assessment

During either a RAPID or emergency response incident, the Public Participation Specialist utilizes the following set of general guidelines. Upon entering the community, the Public Participation Specialist, with the assistance from on-scene technical staff, makes an informal assessment of community needs. The following is a suggested list of questions to be answered in making that assessment:

- ◆ Who is affected?
- ◆ How many are affected?
- ◆ What kinds of effects are seen?
- ◆ What are the community's concerns about the release?
- ◆ Are there background factors that affect community perceptions (i.e., previous releases, proximity to hazardous waste sites or facilities, etc.)?
- ◆ Who are the community leaders?
- ◆ Where can people congregate for information?
- ◆ What information channels already exist?
- ◆ What are the language(s), literacy level and cultural background of the community?
- ◆ Are translators, interpreters or others who can assist in the communication of information needed?
- ◆ Are there special needs for children, the elderly, physically challenged, or those with visual or hearing impairments? Are there facilities in existence already, which can assist?
- ◆ Is information already reaching the community, and is it sufficient?
- ◆ Is the information contradictory?

The informal assessment will identify:

- ◆ Where to Establish an Information Center — If one does not already exist, establish an information center where groups and individuals can receive up-

dates on the incident. This could be a high school, an evacuation center, a police or fire station, or the Incident Command Center.

- ◆ Need for reconnaissance efforts — Public participation staff work with local health officials to identify community concerns regarding routes of exposure which help guide health advisories, sampling strategies, the need for a human health exposure assessment and epidemiology. In addition, these interviews may also be a basis for determining if the assistance of mental health professionals is needed.
- ◆ Need for Fact Sheets – Develop and distributed fact sheets needed pertaining to the incident with assistance and oversight of the Public Participation Specialist. Technical staff and representatives from the Office of the Science Advisor will assist in the writing of fact sheets. Coordinate the production and distribution of the fact sheet with other agencies as appropriate. The responsible party may be asked to provide a mailing list and/or distribute the fact sheet.
- ◆ The fact sheets address community concerns and include the State’s understanding of the incident, the chemical hazards and risks associated with the incident, the ongoing or proposed removal or remediation activities, a glossary of technical terms, meeting announcements, and where more information can be obtained. Fact sheets must be in a language understandable by the affected community. Make fact sheets available at the information center.
- ◆ Need to provide technical expertise — The assessment also identifies what technical information the community needs. Public participation staff works with technical experts to answer questions from the affected community and to local officials.
- ◆ Need for public meetings and small group meetings — The assessment identifies the need for these meetings, as well as the need for appropriate speakers, interpreters and meeting places. During the initial stages of the incident, large meetings may be impossible; however, efforts should be made to share as much information as possible with small, affected groups. Large public meetings should be held when the need arises, usually once the initial stages of the emergency have passed. However, if public demand is high, a large group meeting may be necessary during the initial stages of the emergency incident.
- ◆ Need for formal community assessment — If the incident appears to have long-term involvement by DTSC, it is recommended that the public participation staff, with assistance from technical experts, develop a formal community assessment, and consider development of a formal Public Participation Plan.

Site Mitigation Program Technical Milestones and Public Participation Activities

Public Participation Activities	Site Discovery	Preliminary Endangerment Assessment (PEA)	Remedial Investigation & Feasibility Study	Draft Remedial Action Plan	Final Remedial Action Plan	Design & Implementation	Removal Action Workplan
Public Participation File		0	0				
Phone Log		0	0	0	0	0	0
Community Profile		X	X				X
Community Survey		0	X				
Public Participation Plan			X				0
Mailing List/update		0	X	X	X		X
Information Repository(ies)/update	0	X	X	X	X	X	
Inform Other Agencies	X	X	X	X	0	0	X
Brief Local Officials	0	0	0	0	0	0	0
Information Letter/Flyer	0	0	0	0	0	0	0
Fact Sheet	0	0	X	X	0	0	X
Public Notice		0	0	X	0		0
30-Day Public Comment Period				X			0
Community Meeting		0	0	X		0	X
Small Group Meeting		0	0	0	0	0	0
Briefing		0	0	0	0	0	0
Workshop		0	0	0	0	0	0
Open House		0	0	0	0	0	0
Community Advisory Groups		0	0*	0*	0*	0*	0*
Restoration Advisory Boards	0	0	0	0	0	0	0
Technical Review Committee Mtg		0	0	0	0	0	0
Response to Comments				X			0
Letter of Completion						0	0
Update Public Participation Plan				0	0	0	0
Monitor Community Interest		0	X	X	X	X	X

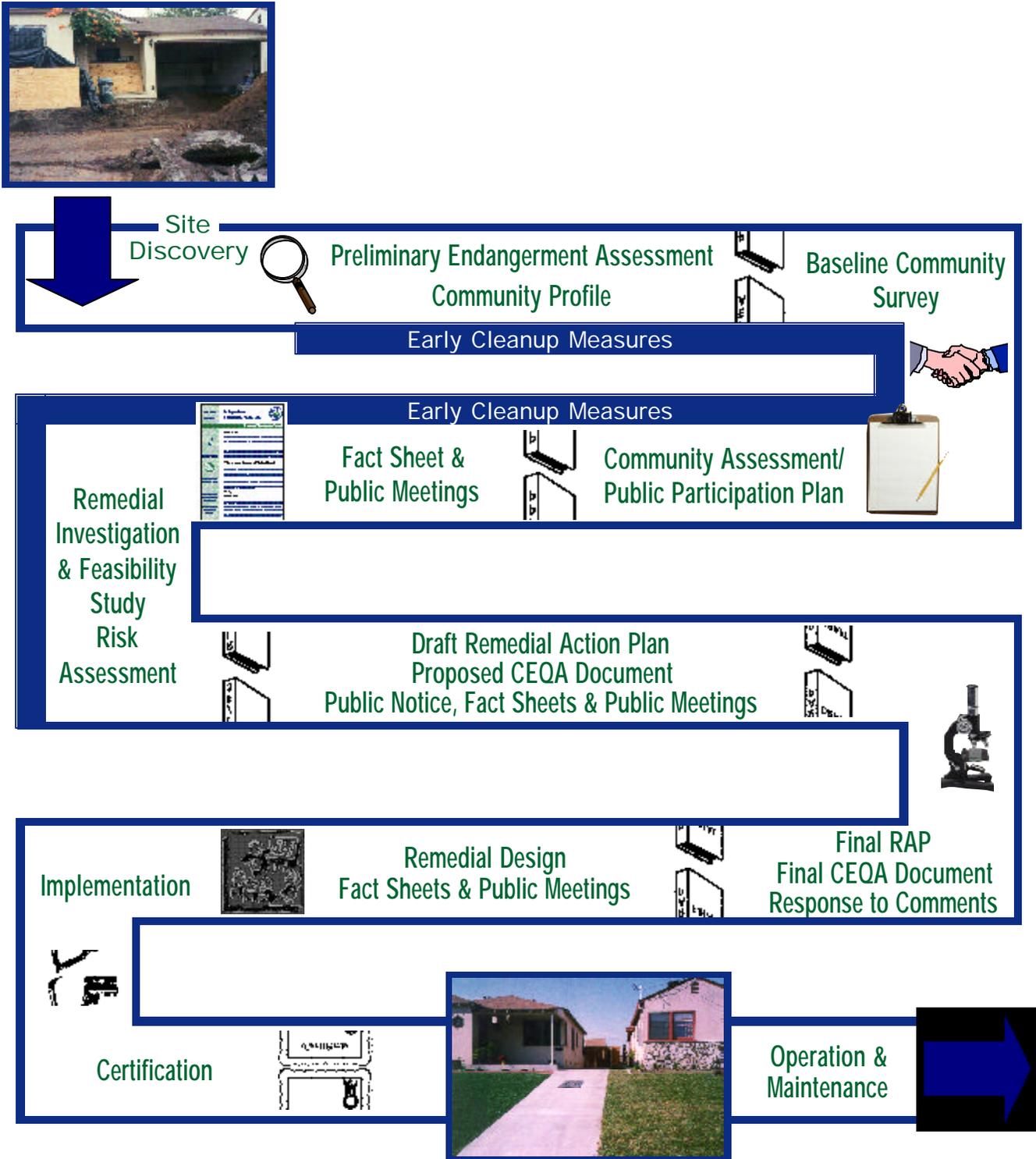
o* = CAG is required if community requests one

National Priority List (NPL) Sites Only

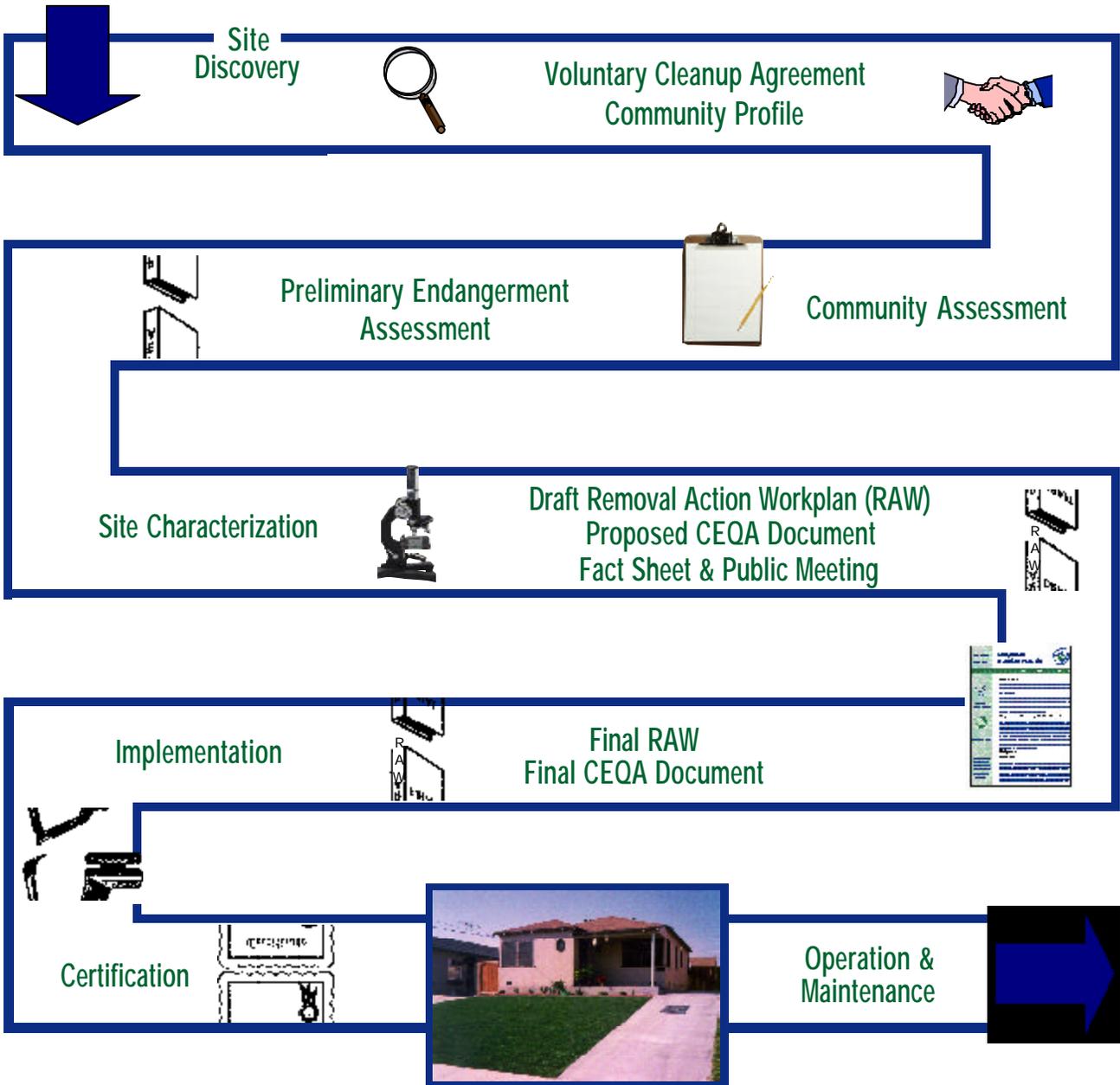
Public Participation Activities	Site Discovery	Preliminary Endangerment Assessment (PEA)	Remedial Investigation & Feasibility Study	Draft Remedial Action Plan	Final Remedial Action Plan	Design & Implementation	Interim Remedial Measures/Removal Action
Establish/Update Administrative Record			X	X	X	X	X
Notice of Availability of Administrative Record		X	X	X			
Post Public Notice at Site		0		X			0
Paid Radio Ad				0			
Public Service Announcement				0			0
Notice of Availability of TAG			X				

Legend: X = Required 0 = Optional

Site Mitigation Process



Removal Action Workplan Process



Department of Toxic Substances Control

Public Participation Manual

CHAPTER 4

HAZARDOUS WASTE MANAGEMENT
PROCESSES

Chapter 4 ♦ Hazardous Waste Management Processes

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The Hazardous Waste Management Program

Overview

Public participation is an integral part of the DTSC Hazardous Waste Management Program, by law, regulation, and policy. Public participation is required in the permit decision-making process and in particular during the:

- ◆ Review of permit applications;
- ◆ Issuance of draft permit decisions;
- ◆ Permit modification process;
- ◆ Planning and implementation of corrective action;
- ◆ Approval of closure and post-closure plans; and
- ◆ CEQA environmental assessment process for the permit action.

Public participation ensures that there is two-way communication between the public and DTSC decision-makers. It ensures that public concerns and input are considered in the final decision. Public participation assumes that persons in a democracy have the right to know about the activities of public agencies and to participate in those activities if they so choose. It also assumes that agencies can benefit from public input, and thereby make better decisions.

The timing of public participation activities is critical to the success of the program. Early and meaningful involvement will also enhance agency credibility with the public, lessening the likelihood of public outrage that occurs if a community feels it has been excluded from the agency decision-making process. State and federal laws and regulations require this early public involvement.

In summary, the public participation process is initiated early and continues throughout the life of a facility, even into post-closure.

The following subsections provide specific guidance and authority for public participation in the DTSC hazardous waste management process.

Statutory and Regulatory Authorities

RCRA

The Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6901 *et seq.*) was first enacted by the U.S. Congress in 1976 as an amendment to the Solid Waste Disposal Act. Since then, RCRA has itself been amended several times, among the most significant being the 1984 amendments, also referred to as the Hazardous and Solid Waste Amendments (HSWA). RCRA defines hazardous wastes and provides guidelines for their management from their creation to ultimate disposal (cradle to grave). RCRA regulates the generation, transportation, treatment, and disposal of those wastes it defines as hazardous. These guidelines are contained in Subtitle C of the Act.

40 C.F.R.

The regulations promulgated by the U.S. Environmental Protection Agency (U.S. EPA) implementing RCRA, Subtitle C, are outlined in Title 40 Code of Federal Regulations (40 CFR, parts 261-266 and 268-270). Part 270 addresses the hazardous waste permit program requirements. Permit modification requirements are found in 270.42. **Public Participation requirements for permitting are found in 40 CFR Part 124.**

[NOTE: U.S. EPA published the *RCRA Public Involvement Manual*, September 1996. This guidance document lists both required (40 CFR) and suggested public participation activities for RCRA permitting actions.]

NEPA

The National Environmental Policy Act (NEPA) (42 U.S.C. Sec. 4321 *et seq.*) establishes an environmental review process that is separate from but similar to that under CEQA. However, NEPA applies only to federal agencies. A project is subject to NEPA when it requires permits, entitlements, or funding from a federal agency; when it is jointly undertaken with a federal agency; or when it is proposed on federal land.

Hazardous Waste Control Law (Chapter 6.5)

Hazardous Waste Control Law (HWCL), (1972) is California's statute regulating the management of hazardous waste. Health and Safety Code, Division 20, Chapter 6.5 (HSC § 25100 *et seq.*) HWCL sets forth definitions of hazardous wastes and procedures for their safe handling, transportation, treatment and disposal. Generally, the categories of substances considered hazardous are broader in HWCL than RCRA.

Although RCRA and HWCL, and their respective implementing regulations are similar, both form the basis of the DTSC public participation program. However, not all the requirements for various permitting activities are identical. In all cases, DTSC policy is to follow the most stringent or comprehensive requirements.

The Tanner Act (HSC § 25199), also known as the Tanner Act (AB 2948, 1986), requires counties to prepare, for DTSC approval, hazardous waste management plans. These plans must estimate the volume and type of hazardous waste produced within the county, identify the capacity to treat and dispose of these wastes and establish siting criteria for hazardous waste treatment, storage and disposal (TSD) facilities. The Tanner Act prescribes specific public participation activities, which must be carried out during the local land use permit process for siting new or expanding off-site commercial TSDs.

Title 22, CCR Title 22, California Code of Regulations (CCR) (Div. 4.5, Environmental Health Standards for the Management of Hazardous Waste) details the regulatory requirements for the implementation of hazardous waste management statutes contained in the Health and Safety Code. Title 22, CCR Div. 4.5, Chapters 20 and 21 list mandatory public participation requirements as part of permitting and closure decision requirements. (See Title 22, CCR, § Title 22, CCR 66270.1(c)(6)(A), 66270.42, 66271.5, 66271.19).

CEQA California Environmental Quality Act (CEQA), (1970, amended in 1993). Requires state and local agencies to disclose and consider the environmental implications of their decisions, and to avoid or reduce the significant environmental impacts of their decisions whenever it is feasible to do so. (Public Resources Code, Section 21000 et seq.)

The State CEQA Guidelines, developed by the Office of Planning and Research and adopted by the Secretary for Resources, are binding on all state and local agencies (Title 14, CCR, Section 15000 et seq.). CEQA and the State CEQA Guidelines set out numerous public participation requirements.

Roles and Responsibilities

Public participation is a required component of the Hazardous Waste Management (HWM) permit determination and closure plan processes. Therefore, all DTSC staff members share responsibility for public participation. The Public Participation Specialist (PPS) serves as both an advisor and overseer of public participation activities during the permit determination, closure plan approval, and corrective action processes. The Public Participation Specialist and Project Manager meet early in the project and agree to specific roles and responsibilities for the required public participation activities.

The Project Manager manages and oversees the technical aspects of a permit project, and provides public participation support. The Public Participation Specialist makes all decisions regarding public participation activities on a permit project in conjunction with the Project Manager, and ensures that those activities are carried out. This responsibility may be delegated to the Project Manager when public participation resources are inadequate.

Public Participation Supervisor

The Public Participation Supervisor is responsible for:

- ◆ Ensuring that all applicable federal and state laws, regulations, and directives regarding public involvement in hazardous waste management are executed at all facilities in California;
- ◆ Advising DTSC HWM managers (Seniors, Branch Chiefs, Division Chiefs) in matters pertaining to public participation;
- ◆ Managing the Public Participation Program workload and budget for his/her unit, and providing supervision and support; and
- ◆ Managing the administrative support for their unit.

Public Participation Specialist

The Public Participation Specialist works closely with each Project Manager and is available to:

- ◆ Identify and plan appropriate public participation activities and techniques;
- ◆ Monitor and initiate public participation activities being conducted and serve as the primary liaison between members of the public and DTSC;
- ◆ Serve as an advisor to Seniors and Branch Chiefs on issues of community concern and involvement;
- ◆ Elevate critical public participation issues through the Public Participation Supervisor;
- ◆ Ensure that all public participation requirements are being met; and,
- ◆ Provide direct input and oversight, as appropriate, to ensure that the community outreach program is effective in achieving the intent of RCRA public participation provisions.

NOTE: The Public Participation Specialist may be assigned to coordinate all public participation activities at the more complex and controversial facilities, while the Project Manager has review and approval responsibilities on technical activities. In all cases, the Public Participation Specialist has final review and approval for completeness and quality of public participation activities and documents, while the Project Manager is responsible to ensure all technical information in the public participation document is accurate.

- Project Manager** The Project Manager manages and oversees all technical aspects of a permit project. In addition, the Project Manager is responsible to:
- ◆ Coordinating with the PPS to ensure that appropriate public participation requirements of RCRA, HSC Chapter 6.5, CEQA, 40 CFR, CCR and DTSC policy are fulfilled;
 - ◆ Being familiar with all required and optional public participation activities. The Project Manager must also be prepared to initiate and manage public participation activities throughout the permit determination or closure plan approval processes if Public Participation Specialist resources are unavailable; and,
 - ◆ Consulting regularly with the Public Participation Specialist and including him/her in all technical aspects of the project in which the public may have interest.
-

Facility The facility owner/operator may assist DTSC in conducting public participation activities appropriate for the level of community interest during the permit determination, corrective action or closure plan approval process.

Introduction

RCRA establishes initial directives and guidelines for regulating and managing hazardous waste from generation to disposal. RCRA requires that safe and secure procedures be used in storing, treating, transporting, and disposing of hazardous waste.

- **RCRA Waste:** Hazardous waste which the federal government regulates or has authorized DTSC to regulate.
- **Non-RCRA Waste:** Hazardous waste regulated by the State but not by the federal government. Also referred to as California hazardous waste.
- **RCRA-Exempt:** Hazardous waste specifically exempted from federal regulation under RCRA. Household hazardous waste is an example of a type of RCRA-exempt hazardous waste.

California has adopted a five-tiered approach to permitting facilities that are authorized to manage either RCRA or non-RCRA wastes. The tiers are:

1. Full Permit
2. Standardized Permit
3. Permit by Rule
4. Conditional Authorization
5. Conditional Exemption

Only the Full Permit (Tier 1) and the Standardized Permit (Tier 2), have public participation requirements.

DTSC also conducts other hazardous waste facility actions that have either mandatory or recommended public participation activities. These are:

- ◆ Emergency Permits
- ◆ Research, Demonstration and Development Permits
- ◆ Closure Plan Approvals
- ◆ Post Closure Permits
- ◆ Permit Appeals
- ◆ Permit Modifications
- ◆ Temporary Authorizations
- ◆ Corrective Action Activities
- ◆ Variances

The remainder of this chapter is organized in the following way:

Tiered Permitting Activities with Public Participation Requirements

Tier 1 – Full Permit

Tier 1 – Incinerator, Boiler and Industrial Furnace

Tier 2 – Standardized Permit

Other Permitting Activities with Public Participation Requirements

- ◆ Emergency Permits
- ◆ Research, Demonstration and Development Permits
- ◆ Closure Plan Approvals
- ◆ Post Closure Permits
- ◆ Permit Appeals
- ◆ Permit Modifications
- ◆ Modifications to Closure Plans
- ◆ Temporary Authorizations
- ◆ Corrective Action Activities
- ◆ Variances
- ◆ RCRA Compliance and Facility Violations
- ◆ Small Site Cleanups

Tiered Permitting Activities with Public Participation Requirements

Tier 1 - Full Permit

A full permit is required at facilities to treat, store, or dispose of RCRA-regulated and selected non-RCRA hazardous wastes. A full permit can be granted to a new facility, a facility applying to significantly modify an existing permit, or a facility currently operating under Interim Status (Title 22 California Code of Regulations). A full permit requires public participation activities, however, the variety and frequency of activities will be determined by the level of community interest and public involvement is critical to an effective public participation program during the permit decision-making process.

The full permitting decision-making process is comprised of a number of steps. Each step has accompanying public participation requirements. This section divides the process into the following steps with accompanying public participation requirements:

- ◆ Pre-application
- ◆ Application submittal and agency review
- ◆ Draft permit preparation, public review
- ◆ Response to Comments and final permit decision

Under the RCRA Expanded Public Participation Rule (40 CFR Section 124.31, December 1995) later incorporated into California regulation (CCR Section 66271.31 et seq.) earlier and expanded public participation is required in the permit decision-making process. Specific requirements for all new RCRA permit applications and for RCRA permit renewals are prescribed for the pre-application and application submittal steps as follows:

Pre-Application

The following are required for all applicants submitting a Part B Permit Application or permit renewal applications (with changes equivalent to a Class 3 permit modification) submitted after June 11, 1996.

- **Pre-application public meeting:** The applicant must hold a public meeting to inform the community of proposed hazardous waste management activities and to open a dialogue with the community. A sign-in sheet shall be available at the meeting for attendees to voluntarily provide their name and addresses for the facility mailing list for future communication. [40 CFR 124.31 (b); Title 22 § 66271.31 (b)]

At the meeting, the permit applicant covers the following topics, providing the information is available:

1. Type of facility the company proposes to operate;
2. Location of the proposed facility or unit;
3. The general processes involved;
4. The wastes to be generated and managed;
5. The proposed waste minimization and pollution prevention plans;
6. Expected transportation routes; and
7. Procedures and equipment proposed for preventing and responding to accidents or releases.

The DTSC Project Manager is encouraged to attend the pre-application meeting, but is not an active participant. To the extent practical, a pre-application public meeting may be combined with a new facility-siting meeting (Tanner Siting Law), but the facility should clearly distinguish for meeting attendees, the pre-application public meeting activities from those required under the Tanner Siting Law.

- .. **Public notice of the pre-application public meeting:** A public notice announcing the pre-application public meeting must be placed as a display ad in a newspaper of general circulation in the county where the facility is proposed to be located. DTSC (as determined by the Public Participation Program) may direct the facility to place notices in additional newspapers in adjacent counties if DTSC determines broader outreach is necessary to inform the affected public. The public notices must be written in a language appropriate to the affected community and appear **at least 30 days prior to the meeting**. Pursuant to Title 22 § 66271.31 (d); 40 CFR § 124.31 (d), the notice must contain:
 - Date, time and location of the meeting;
 - Brief description of the purpose of the meeting;
 - Brief description of the facility and proposed operations including the address or a map;
 - A statement encouraging people to contact the facility at least 72 hours in advance if they need special access to participate in the meeting (such as language interpreters); and
 - Name and phone number of a facility contact person.
- .. **Broadcast media announcement:** The applicant must broadcast the public notice at least once on one local radio or television station. The applicant may employ another medium, aside from television or radio with prior approval of DTSC. This must be a paid advertisement, not a public service announcement. [40 CFR § 124.31 (d) (1) (iii); Title 22 § 66271. 31 (d)(1)(c)]
- .. **Visible and accessible sign:** The applicant shall post a clearly marked notice of the pre-application meeting, including all components of the newspaper notice, at or near the facility or proposed facility location. The sign must be readable at the nearest point at which the public would pass by the facility.

- “ **Meeting summary:** The applicant will provide a summary of the pre-application public meeting, a list of attendees and their addresses, and copies of any written comments. [40 CFR § 124.31 (c); Title 22 § 66271.31 (c)]
 - “ **Additional activities:** If interest appears to be high from a large turnout at the pre-application public meeting, or other indicators demonstrate a need, DTSC may choose to hold its own meeting, develop its own fact sheet(s), and conduct other activities during the pre-application phase. The Public Participation Specialist, in consultation with the Project Manager, determines if DTSC will carry out public participation activities before a permit application is received.
-

Application Submittal and Agency Review

The following requirements apply to all new RCRA Part B applications and to all permit renewals (regardless of whether the renewal proposes changes in the permit).

Public Participation Requirements of Applicant:

- “ **Community Profile:** A Community Profile describing the community (including sensitive receptors) and assessing potential community concerns will be prepared by the applicant when the permit application is submitted. For existing facilities seeking permit renewal, the Public Participation Specialist may waive this requirement if sufficient information about the community already exists. (DTSC policy)

Public Participation Requirements of DTSC:

- “ **Document inquiries:** All inquiries concerning the project will be documented and made part of the administrative record. (DTSC policy)
- “ **Approve Community Profile:** The Public Participation Specialist coordinates with the facility in the preparation of the Community Profile and provide guidance as needed. The Public Participation Specialist approves the final Community Profile and determine the need for additional community assessment.
- “ **Develop facility mailing list:** A mailing list for new facilities should include names from the sign-in sheets at the pre-application meeting as well as the DTSC mandatory mailing list, contiguous property owners, those who express interest, and other potentially affected persons. Mailing lists should be developed and updated as part of the community assessment process.
- “ **Public notice:** DTSC must mail a public notice to the facility mailing list and to appropriate units of State and local government that a Part B Application has been submitted to DTSC and is available for review. The notice shall be published within a reasonable time after the application is received. In most cases, 30 to 60 days is adequate to prepare the notice and have documents ready for public access. The public notice shall include [Title 22, CCR Section 66271.32]:

- Name, address and telephone number of the permit applicant's contact person;
 - Name, address, and telephone of DTSC contact person;
 - Location where the Permit Part B Application and supporting documents can be viewed and copied;
 - Brief description of the facility and proposed operations, including the address or a map on the front page of the notice;
 - Date the application was submitted.
- .. **Information repository:** DTSC shall establish an information repository, containing copies of documents relating to the permit application at the DTSC office located closest to the affected facility. The permit applicant provides the documents for the repository to DTSC. If the Public Participation Specialist, in consultation with the DTSC Project Manager determines the level of public interest warrants, DTSC will require that the applicant establish and maintain a repository near the facility in a location convenient to the community. The facility may determine the community-based repository location, but if the location presents access problems, DTSC will select a more appropriate location. [Title 22 § 66271.33 (b)]

Additional public participation activities that may be required by the Public Participation Specialist in consultation with Project Manager based on community interest.

- .. **Community Survey:** A survey may be mailed to persons living in the vicinity to the facility to further assess community interest.
- .. **Public Participation Plan:** After initial community assessment (Community Profile, surveys, meetings), or at a later stage in the process, if the Public Participation Specialist determines that community interest is high, a public participation plan (PPP) may be developed for a permit determination project. As part of the development of a Public Participation Plan, the Public Participation Specialist and DTSC Project Manager conduct community interviews to identify issues and concerns, and to plan appropriate public participation activities.
- .. **Fact sheet, meeting, availability session/open house:** The Public Participation Specialist may determine that one or more of these activities may be helpful to address concerns, and to inform and involve the community.

Draft Permit (or denial) Preparation and Public Review

The following Public Participation activities are required during the draft permit or draft permit denial public review and comment process. **The same activities are required for renewal of an existing permit.**

- .. **Mailing list:** At the time of public review, the mailing list is updated.

- **Information repository(ies):** The draft permit, draft permit denial or draft permit renewal, and supporting documents should be added to the information repository prior to the beginning of the public review and comment period. [40 CFR § 124.33, CCR S 270.30 and 271.33]
- **Fact sheet:** A fact sheet describing the draft permit, draft permit denial or draft permit renewal is sent to the updated project mailing list. The following information must be included in the fact sheet: [40 CFR' 124.7; CCR 66271.7]
 - Brief description of the facility or activity, which is the subject of the draft permit, denial or renewal;
 - Type and quantity of wastes covered by the draft permit, denial or renewal;
 - Brief summary of the basis for the draft permit, denial or renewal conditions including appropriate references to supporting statute and regulation and references to administrative record requirements of CCR 66271.8; or a brief summary of the reason for the draft permit denial, if applicable;
 - Reasons why any requested alternatives to required standards are or are not justified;
 - Description of procedures for making a final permit decision, renewal or denial decision;
 - Beginning/ending dates of public comment period and where comments should be sent;
 - Announcement of a public hearing, if one is planned, or procedures for requesting a hearing and the nature of the hearing, if one is not planned;
 - Any other procedures by which the public may participate in the final decision (i.e. a public availability session, review of the CEQA documents, repositories);
 - Name and phone number of DTSC Project Manager and Public Participation Specialist.

Fact sheets must meet the basic regulatory requirements, but be written as free of technical jargon as possible, in all appropriate languages for the community, and at a reading level understandable by the typical resident of the community. See Exhibit 6-14 in Chapter 6 for additional guidance on fact sheet content.

- ♦ **Public notice:** A public notice to announce the proposed action and public comment period must be placed in a newspaper of general circulation [CCR Section 66271.9]. DTSC policy requires the public notice be placed as a display ad and be written in a language appropriate to the affected community. CCR Section 66271.9 states the notice shall include:
 - Notification that a draft permit, permit renewal or denial has been prepared and is available for public review and comment (minimum 45 days for draft permit, draft permit renewal, or draft permit denial) and procedures for submitting comment;

- 30-day advance notice of a public hearing, if one is planned, and the time, date, and location of the hearing. If one is not planned, include procedures for requesting a hearing;
- Name and address of the DTSC office preparing the draft permit, renewal or denial, and of the facility applicant;
- Brief description of the business conducted at the facility and the nature of the draft permit, renewal or denial;
- Location of the administrative record and public repositories, hours of availability, and a statement that all data submitted by the applicant is available as part of the administrative record. (The applicant may claim some information confidential or proprietary. DTSC will follow established policy in independently supporting or denying such claims.);

NOTE: A fact sheet may be used as the public notice to the mailing list if all required elements of a public notice specified in CCR Section 66271.9 are included in the text, and the dates of the public comment period, location to send comments, and announcement of a public hearing (or how to request one) are in a box on the front page.

- **Compliance with CEQA:** Public notice and public review and comment provisions of CEQA may be incorporated into the similar process for the draft permit. For example, the public notice and fact sheet may announce a comment period and hearing on both the draft permit, renewal or denial, and the accompanying CEQA documentation. **In some instances public opposition is high, or the draft permit, renewal or denial, and the draft CEQA document are complex (i.e. an EIR). Under these circumstances, the PPS in consultation with the Project Manager may hold the CEQA public comment period and hearing prior to and separate from the draft permit, renewal or denial process.**
- **Paid radio ad:** A paid radio ad must be used to advertise a public comment period and hearing, if one is held, for a draft permit, renewal or denial. [Title 22 CCR § 66271.9 (c)(2)(B) and § 66271.11 (a) (4)]
- **45-day public comment period:** A 45-day public comment period must be conducted to receive comments from the public on the draft permit or renewal. A 45-day comment period is required for a draft permit denial. [Title 22 § 66271.9 (b) (1); 40 CFR § 124.10 (vi) (3) (b)]
- **Public hearing:** A public hearing will be conducted if sufficient public interest exists or upon written notice of opposition to the proposed permit. DTSC may also hold a hearing to clarify one or more issues involved in the permit decision. Any person may submit written or oral comments at the hearing. Reasonable time limits for comments shall be established. This may vary depending on the number of people wishing to comment [Title 22 § 66271.11; 40 CFR § 124.12]
- **Transcript:** A taped recording or written transcript of the hearing is required and shall be made available to the public [40CFR § 124.2, Title 22 66271.11(d)].

- .. **Monitor community interest:** Community interest/concerns will be monitored throughout the project (DTSC policy).
 - .. **Inform other agencies:** DTSC and/or the applicant shall coordinate with other agencies and provide information about the project in a timely manner (DTSC policy)
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Response to Comments and Final Decision

- .. **Prepare a response to comments:** A Response to Comments document that addresses comments received during the public comment period will be sent to all commentors and made available to the public. All significant comments, (including oral comments received during the public hearing), related to the draft permit, renewal or denial, and CEQA document shall be responded to. If any provisions of the draft permit, renewal or denial, or CEQA document are changed as a result of consideration of public comment, the changes are identified and reasons for the changes are included in the Response to Comments. [Title 22 § 66271.16; 40 CFR § 124.14]
- .. **Notice of Final Decision:** The notice of final decision will be sent to commentors and interested parties and should include information on the appeal process [Title 22 §§ 66271.14, 66271.18; 40 CFR §§ 124.15, 124.19]

Additional public involvement activities may be required at the discretion of the Public Participation Specialist in coordination with Project Manager, based upon an of community interest:

These activities may include:

- 60 or 90-day extended public comment period
- Brief local officials
- An information letter
- A flyer to make an announcement or to update the community of the progress
- Briefing for those affected by or interested in the decision
- A workshop
- An open house
- Small group meetings

Tier 1 - Incinerators, Boiler and Industrial Furnace

Operating Permit

A hazardous waste incinerator, boiler and/or industrial furnace (BIF) requires a full permit to operate. **An incinerator and BIF permit application requires the same public participation activities as full permit application.** When the level of community interest in the proposed project is high, the Public Participation Specialist, in consultation with the Project Manager may require additional activities.

Trial Burn

One of the requirements of the permit application process for an incinerator or a BIF is for the applicant to conduct a trial burn to demonstrate that the proposed unit meets all of the standards outlined in the draft permit. The trial burn is overseen by DTSC. Specific public participation activities are required to be carried out with the community prior to, during and after the trial burn.

Public Participation activities:

- .. **Information repository:** Prior to the trial burn, the information repository established during the permit application process is updated, if necessary, to ensure that it contains general information about the permit application, the draft permit and the proposed trial burn.
- .. **Pre-Trial Burn public notice:** With the adoption of the Expanded Rule for Public Participation, the public notice requirement for a trial burn is found in both federal and state regulation, and applies to new and existing incinerators, and BIFs. The intent of the notice is to inform the community of the trial burn, not to initiate a comment period on the Trial Burn Plan. Comments on the Trial Burn Plan are received during the public comment period on the draft incinerator or BIF permit.

A public notice must be mailed to the facility mailing list and placed in a newspaper of general circulation within a reasonable period of time (normally at least 30 days) before the scheduled trial burn, and must contain the following:

- Name and phone number of applicant=s contact person;
 - Name and phone number of DTSC Project Manager;
 - Location where the approved Trial Burn Plan and supporting documents can be reviewed and copied; and
 - Expected time period for commencement and completion of the trial burn.
- .. **Post-Trial Burn public notice:** Upon completion of the trial burn, a public notice is sent to the mailing list and placed in a newspaper of general circulation announcing the completion of the trial burn and notifying the public of the location(s) of the repository(ies) where the results can be reviewed. [CCR Section 66270.62 (b) (6)]

- “ **Fact sheet:** A fact sheet in a language appropriate to the affected population explaining the trial burn results is strongly recommended, especially if the public interest is high [CCR Section 66271.7].
 - “ **Community meeting:** A community meeting may also be necessary to review the results of the trial burn with the community that has shown a great deal of interest in the trail burn. (CCR Sections 66271.11 and 66271.12)
 - “ **Additional requirements:** Upon completion of the trial burn, DTSC modifies the permit conditions to take into account the results of the trial burn. The permit modification process requires specific public participation activities. The public participation activities for permit modifications are delineated in the Permit Modification Sub-Section under “Other Regulated Activities” in this chapter.
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Tier 2 - Standardized Permit

A Standardized Permit may be granted to a facility that meets State regulations to treat or store non-RCRA hazardous wastes (hazardous waste not regulated by the federal Resource Conservation and Recovery Act but regulated as hazardous waste by the state of California). Facilities such as recyclers, oil transfer stations, and precious metals recyclers as well as generators of non-RCRA hazardous waste, which also wish to treat or store on site are eligible for a standardized permit. An application for a Standardized Permit is subject to the same public participation activities as an application for a full permit. The public may be less interested in the application process for a Standardized Permit than a Full Permit because the facility does not handle federally regulated waste (RCRA) and waste streams, and generally poses a lower risk. However, an independent community assessment is completed so that all appropriate and required public participation activities will be conducted, consistent with the level of public interest.

Public Participation activities: See requirements for full permit.

Other Permitting Activities with Public Participation Requirements

Emergency Permit

An Emergency Permit may be temporarily granted to permitted and non-permitted facility if DTSC determines that there is an imminent and substantial endangerment to human health and/or the environment and there is a need to allow transfer, treatment, storage, or disposal of hazardous waste normally subject to Full Permit requirements. By regulation, there is limited opportunity for public involvement in such emergency permit decisions. However, to the extent practical, the community shall be informed and involved.

Public Participation activities:

- .. **Public notice:** A public notice must be placed in a newspaper of general circulation at the time the emergency permit is issued or soon thereafter. The public notice must be written in a language appropriate to the affected community and follow the provisions of public notice found in Title 22 §§ 66270.61 (b) (5) and 66271.9. No comment period is required, due to the determination that an imminent and substantial endangerment exists.
- .. **Additional activities:** The Public Participation Specialist in consultation with the Project Manager may determine that additional activities are warranted if community interest is high. These may include:
 - * Fact sheet
 - * Public meeting
 - * Briefings
 - * Flyers
 - * Information flyers

Research, Development and Demonstration Permit

These limited-term permits are granted for on or off-site treatment of hazardous waste pursuant to CCR 66270.65. These permits are issued for purposes of demonstrating innovative technologies. The permits are effective for one year and may be renewed up to three times for one-year periods. Research, Development, and Demonstration (RD&D) permits require the same public participation involvement as for a Full Permit. Due to the limited term of the permits, they may have less community interest however, each RD&D project should be assessed case-by-case basis to determine the level of community interest.

Public Participation activities: See requirements for Full Permit.

Closure Plan

The hazardous waste facility owner and operator must prepare a Closure Plan that identifies the steps the facility intends to implement in order to complete closure. The Closure Plan is required component of the Part B Application required for all full permit and interim status facilities. The Closure Plan is also a required part of the Standardized Permit application.

Closure is the process that a waste facility must undergo after the facility (or a portion of that facility) ceases operation. The facility must remove the hazardous wastes that remain on-site and dispose of them, or take other corrective measures which minimize risk, and decontaminate the on-site equipment and structures. In order to achieve clean closure, the remaining levels of hazardous constituents must not exceed background or levels that are protective of public health and the environment. Typical steps that are conducted during closure of a treatment, storage, or disposal facility include removal of wastes and equipment; confirmation soil sampling; and any soil removal or other cleanup actions that are required to achieve clean closure. Closure of a landfill may entail placement of a final cover or cap without removal of the hazardous wastes.

Note: If the closure plan approved within the permit is being implemented without modification, then no additional public participation activities are required.

Public Participation activities:

- .. **Community Profile:** A Community Profile (if not previously completed), describing the community and assessing potential community concerns will be prepared by the applicant when work on the project begins. (DTSC policy);
- .. **Public comment period:** A proposed closure plan requires a 30-day public review and comment period;
- .. **Public notice:** Regulations require a newspaper notice of the comment period for the proposed closure plan. In addition, it is DTSC practice and policy to also send the public notice to the facility mailing list. Closure plan regulations do not specify the content of the public notice, but it is DTSC policy to follow the public notice content requirements (with exception of the 45 day period) for the draft permit public notice;
- .. **Information repository:** The draft Closure Plan and related CEQA document must be placed in the repository for public review;
- .. **Public hearing:** In response to a request or at DTSC discretion a public hearing may be held if holding a hearing may clarify one or more issues regarding the draft Closure Plan. Thirty-day notice of the hearing shall be given;
- .. **Additional requirements:** The **Public Participation Specialist** in consultation with the Project Manager can require additional public participation activities.
For high interest or controversial proposed Closure Plans, DTSC requires

all the same public participation activities as for a draft permit, including a fact sheet, hearing, local repositories, and other activities listed under the draft permit process in this manual.

Post Closure Permits

For a regulated unit, (for example a unit at a land disposal facility), with a Full Permit or Interim Status Document, which plans to close and leave waste in place rather than clean-close, the facility must obtain a **post-closure permit** from DTSC.

Required Public Participation activities:

The public participation requirements for a Post-Closure Permit are the same as for a Full Permit pursuant to CCR § 66271.5 et seq.

Permit Appeal

Within 30 days after a final permit decision, any person who files comments on, and/or participated in a public hearing for a draft permit or temporary authorization, may petition DTSC to review any condition of the permit or authorization decision. Any person who did not file comments and/or attend the public hearing on the draft permit may only petition to review those changes that were made from the draft to the final permit/authorization. **If the petition for review is denied, DTSC must send the notice to deny only to the person(s) requesting review. [66271.18]** Permit appeals require the following public participation activities:

Public Participation activities:

- .. **Document inquiries:** All inquiries concerning the project are documented and made part of the administrative record.
- .. **Monitor community interest:** Community interest/concerns will be monitored throughout the project.
- .. **Information repository(ies):** Copies of documents related to a permitting appeal shall be placed in the information repository in a location convenient to the community. [40 CFR § 124.33, 270.30] (See page #);
- .. **Notice of Final Decision:** The Notice of Final Decision will be sent to commentors and interested parties. [Title 22 §§66271.14, 66271.18; 40 CFR §§ 124.15, 124.19]
- .. **Inform other agencies:** DTSC and the applicant shall coordinate with other agencies and provide information about the project in a timely manner.
- .. **Additional activities:** Additional activities may be required at the discretion of the PPS in coordination with Project Manager based upon an assessment of community interest:

Permit Modifications

DTSC Initiated Modifications

DTSC may initiate a modification to a permit when there are alterations to the facility, new information is received, new standards or regulations are adopted after the permit is issued, or DTSC wishes to alter a compliance schedule.

Public Participation activities:

All public participation requirements for a draft permit shall be followed for the DTSC initiated Permit Modification, (CCR Section 66711.4 et seq.): including:

- .. **Public notice** (see required language later in this chapter).
 - .. **Fact sheet**
 - .. **45-day comment period**
 - .. **Public hearing**, if one is requested, or if DTSC determines there is significant interest (30 day notice)
 - .. **Response to comments**
 - .. **Notice of final modification decision**
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Permit Modifications Initiated by the Facility (Permittee)

These permit modifications pertain to changes made to an already existing Full Permit, Standardized Permit or to a facility operating under Interim Status Document until the request for a Full Permit or Standardized Permit has been processed. Depending on the level of change, a permit modification will fall into one of the following categories:

Class 1 Modifications

There are two types of Class 1 Modifications [CCR § 66270.42 (a)]:

Class 1 Modification Not Requiring DTSC Pre-Approval: changes that are minor, usually administrative-type changes.

Public Participation activities:

- .. **Mailing list:** A current DTSC mailing list of interested parties, contiguous property owners, elected officials, the DTSC mandatory mailing list, and other agencies/entities as appropriate must be developed and maintained; and
- ◆ Applicant **must notify the DTSC approved mailing list** within 90 days after the change has been put into effect, and within 7 days after notifying DTSC, for each type of Class 1 modification. [CCR Section 66270.42 (a)(1)(B)]

Class 1 Permit Modification Requiring DTSC Approval: more-significant administrative changes or minor physical changes to the facility.

Public Participation activities:

- .. **Mailing list:** A current mailing list of interested parties, contiguous property owners, elected officials, the DTSC mandatory mailing list, and other agencies/entities as appropriate must be developed and maintained throughout the project. [40 CFR §124.10 (c) (1)(ix)];
- ◆ Applicant **must notify the DTSC approved mailing list** of the proposed modification within seven days after notifying DTSC. [CCR 66270.42 (a) (1) (B)]
- .. **Public notice:** Within seven days of submitting the request to modify the permit to DTSC, the applicant must publish a public notice describing the specifics of the modification. The notice must be placed in a newspaper of general circulation as a display ad (legal notice with Public Participation Specialist approval), and in language appropriate to the community. The content of the public notice shall include:
 - Name and address of facility;
 - Changes being made and explanation of need for changes;
 - Changes are a Class 1 modification pursuant to 66270.42;
 - Name and phone for facility and DTSC contact;
 - Statement that any person may request DTSC review any Class 1 Modification.

Note: There is no public comment period for a Class 1 modification, only notification the modification has occurred or has been applied for.

Class 2 Modifications

Class 2 Modification: (prior DTSC approval required) changes which are more substantive than Class 1 modifications but do not substantially alter the facility's design or management practices. For example, minor changes in the volumes or types of wastes handled, implementation of new technologies or regulatory requirements.

Public Participation activities conducted by permittee:

Class 2 Modification Public Participation activities are **conducted by permittee** under CCR § 66270.42 (b):

- .. **Public notice:** A public notice to announce the proposed action and public comment period must be placed as a display ad (DTSC Policy) in a newspaper of general circulation **and** shall be mailed to the DTSC approved facility mailing list. The public notice must be written in a language appropriate to the affected community. The notice shall:
 - Be published and mailed within seven days before or after submission of the modification request to DTSC;
 - Include the name and address of the facility;

- Describe the modification request;
 - Announce a 60-day comment period and the name and address of the DTSC Project Manager to whom comments should be sent;
 - Give the location of local repositories where copies of the permit modification request and supporting documents can be viewed and copied;
 - Announce the time, date, and location of a public meeting to be conducted by the permittee;
 - Include the statement: **A permittee's compliance history during the life of the permit being modified is available from the Department of Toxic Substances Control Project Manager (Name) .@**
 - Include, in coordination with DTSC, a statement regarding CEQA determination and announcing concurrent comment period for the CEQA determination, if DTSC has completed one. (If an environmental assessment is not completed at the time of public notice, then DTSC will have to separately notice the CEQA determination at a later date.) [Title 22 CCR, § 66270.42 (b) (2)]
- **Community meeting:** The applicant will hold a community meeting to inform the community of the proposed modification no earlier than 15 days after the publication of the public notice, and at least 15 days prior to close of the public comment period. The applicant will announce at the meeting that all comments are to be sent to DTSC. The meeting shall be held at a time and place convenient to the local community. [CCR §66270.42 (b)].

The applicant will announce that the meeting is not a DTSC meeting or a formal public hearing, although the meeting format should provide an opportunity for questions and comments. (NOTE: DTSC staff are encouraged to attend the meeting conducted by the applicant but, as a rule, should not be active participants in the meeting, although they might be called upon to clarify some DTSC procedure.)

The applicant will provide to DTSC a list of all those who registered their attendance at the meeting, for inclusion on the project mailing list.

- **60-day public comment period:** The applicant is required to conduct a 60-day comment period and have all comments sent to DTSC for response. The applicant must obtain a copy of DTSC mailing list. [Title 22 § 66270.42 (b) (2); 40 CFR § 124.10 (vi) (3) (b)]

Class 2 Modification Public Participation activities conducted by DTSC:

- **DTSC mailing list:** DTSC will provide the DTSC facility mailing list to the applicant;
- **Monitor community interest:** Community interest/concerns will be monitored throughout the project (DTSC policy);
- **Document inquiries:** All inquiries concerning the project will be documented and made part of the administrative record (DTSC policy);

- .. **Inform other agencies:** DTSC and the applicant shall coordinate with other agencies and provide information about the project in a timely manner (DTSC policy);
- .. **Comply with California Environmental Quality Act (CEQA):** Concurrently with the permit activity (See chapter 5 for CEQA information);
- .. **Response to comments:** A response to comments received during the public comment period will be sent to all commentors and made available to the public. [Title 22 § 66271.16; 40 CFR § 124.14]; and
- .. **Notice of Final Decision:** The Notice of Final Decision (to grant or deny) the modification request will be sent to commentors and the facility mailing list **within 10 days of the decision** and should include information on the appeal process. [Title 22 § 66270.42(f)(1)]

Class 3 Modifications

Class 3 Modification: (Requires prior DTSC approval) more complex, substantive, and/or controversial changes, which substantively alter the facility's design, operations, or waste management practices. The facility operator is responsible for conducting early public participation activities in the case of facility initiated modifications.

Class 3 Modification Public Participation activities **conducted by permittee:**

The permittee shall conduct all the same public participation requirements as for a Class 2 modification.

Class 3 Modifications Public Participation Activities **conducted by DTSC**

Upon completion of the 60-day comment period initiated by the permittee, DTSC is required to conduct all public participation activities required for a Full Permit pursuant to Title 22, CCR § 66271.4 et seq. This results in a **minimum of 105 days of public review** (60 + 45) for all Class 3 permit modifications.

Modifications to Closure Plans

If an owner/operator of an interim status facility applies for a modification to an approved closure plan, and the proposed changes are the equivalent of a Class 2 or Class 3 modification, then the modification request is processed according to 66265.112 and the same public participation requirements apply.

If an owner/operator of a facility with a Full Permit or a Standardized Permit applies for a modification to an approved closure plan, Class 1, 2, or 3 permit modification requirements in §66270.42 are followed.

Temporary Authorization (for a class 2 or class 3 Permit Modification)

In certain circumstances, and upon request of the permittee, DTSC may grant a Temporary Authorization for Class 2 or Class 3 Modifications without prior public notice. This authorization may be in effect for no more than 180 days (though it may be extended for an additional 180 days).

Public Participation Activities for a Temporary Authorization **conducted by permittee:**

- “ **Obtain DTSC mailing list:** A mailing list of interested parties, contiguous property owners, elected officials, the DTSC mandatory mailing list, and other agencies/entities as appropriate must be developed and maintained throughout the project [40 CFR §124.10(c)(1)(ix)]; and
- “ **Public notice:** A public notice describing the Temporary Authorization request within seven days after submittal of a Temporary Authorization must be sent to the DTSC-approved facility mailing list and be placed as a display ad in a newspaper of general circulation. The public notice must be written in a language appropriate to the affected community. [Title 22 CCR, Chapter 20 § 66270.42 (e)(2)(c)]

Public Participation activities for a Temporary Authorization **conducted by DTSC:**

- “ **Document inquiries:** All inquiries concerning the project will be documented and made part of the administrative record (DTSC policy);
- “ **Monitor community interest:** Community interest/concerns will be monitored throughout the project (DTSC policy);
- “ **Comply with California Environmental Quality Act (CEQA):** Concurrently with the permit activity; and
- “ **Notification of decision to grant or deny temporary authorization to facility mailing list:** DTSC will notify persons on the facility mailing list and appropriate units of state and local government within 10 days of any decision to grant or deny a Class 2 or 3 Permit Modification or Temporary Authorization. The notice shall include reference of the procedures to appealing a decision. [Title 22, CCR § 66270.42 (f)]

Five-Year Permit Review

Background

H&S Code 25200 (c) requires DTSC to review land disposal permits five years after issuance or re-issuance of a permit to assure that the facility is complying with statute and regulations, including any new regulations. The result of the review would necessitate permit modifications for any changes DTSC deems appropriate given the review. There are no statutory or regulatory requirements for public participation other than, upon completion of the review, if DTSC undertakes a permit modification. The review is not intended to be the equivalent of a permit renewal, which has full public participation requirements.

Recommended Public Participation activities for five year review:

- ◆ Briefing of key interested parties of the nature of the review,
- ◆ A fact sheet to the facility mailing list describing the nature and results of the review, including brief description of any resulting anticipated permit modifications and how the public can be involved in those, and
- ◆ Placing the 5 year review in the public repository (ies).

Corrective Action

RCRA required owners and operators of hazardous waste management facilities to clean up contamination resulting from current and past practices. The cleanup process, known as corrective actions, reduce risks to human health and the environment.

At the time of this manual update, there is currently no federal or state regulations addressing public involvement in corrective action. Since corrective action under RCRA is similar in many ways to cleanup under CERCLA (Federal Superfund), federal guidance strongly encourages equivalent public participation processes. Since California is a RCRA authorized state for corrective action, state guidance in this manual is consistent with federal guidance (RCRA Public Participation Manual).

Corrective action may take place in two different ways:

- ◆ Under A RCRA permit or permit modification, or
- ◆ As a RCRA enforcement order under 3008(h), or in authorized states such as California, corrective action may also take place under a state cleanup order, or another state cleanup authority. Orders may be used to get corrective action started in advance of a facility permitting actin or when a facility is closing under interim status. Orders may be issued by consent (consent agreements) or unilaterally.

The basic elements in the corrective action process are outlined along with the associated public participation requirements. The corrective action elements do not always occur in linear order, so flexibility in the implementation of public participation may be necessary.

Corrective Action Under Permitting and 3008(h) Orders

Corrective action may take place under a RCRA permit, permit modification, or as an enforcement order under §3008(h) of RCRA. In authorized states such as California, corrective action may also take place under a state cleanup order, or another state cleanup authority. Orders may be used to get corrective action started in advance of a facility permitting action or when a facility is closing under interim status. Orders may be issued by consent (consent agreements) or unilaterally.

RCRA Facility Assessment

RCRA Facility Assessment (RFA): initial assessment to determine if there have been releases or potential releases at a facility. If a conclusion is reached that there is a potential release, DTSC develops a **schedule of compliance** and includes it in the permit or order.

Public Participation activities:

- **Update or complete Community Profile:** If it appears the RFA will conclude additional corrective action is necessary a Community Profile shall be initiated

and completed prior to completion of the RFI. If the community around the facility has already been adequately assessed by DTSC, an update shall be completed. If the RFA concludes no further action is necessary because there has been no release, further public participation may not be required.

- **Public availability of RFA:** RFA results should be made available upon request.
- **Additional Public Participation Activities:** Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager may require:
 - Mailing list or update;
 - Fact sheet mailed to mailing list (and placed on DTSC's web site);
 - Initiation of Public Participation Plan;
 - Public notice in newspaper (and placed on DTSC's web site);
 - Public meeting or open house; and/or
 - Inclusion of RFA in repository

RCRA Facility Investigation

RCRA Facility Investigation (RFI): If the RFA concludes corrective action may be necessary, an RFI is conducted to further characterize the nature and extent of contamination. The RFI lays the basis for interim measures and remedy selection.

Public Participation activities:

- ◆ Community Profile or update;
- ◆ Develop mailing list or update; and
- ◆ Develop a fact sheet summarizing the results of the RFI shall be produced and distributed to the facility mailing list. Since the RFI characterizes known releases, the community should be informed of the results, even if no further action is required.

Additional Public Participation Activities: Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager may require:

- Inclusion of RFI in repository
- Public notice in newspaper (and placed on DTSC's web site)
- Public comment - On a high interest project, DTSC may solicit public comment on a draft RFI Workplan or on the draft RFI Report
- Public meeting or open house
- Public Participation Plan

Interim Measures

Interim measures: Interim actions may be taken to mitigate or remove ongoing risks to public health or the environment prior to final remedy selection, usually during the RFI or Corrective Measures Study (see below).

Public Participation activities:

- ◆ Mailing list or update;
- ◆ Fact sheet mailed to mailing list (and placed on DTSC's web site);
- ◆ Public notice in newspaper and placed on DTSC's web site;
- ◆ 30-day public comment period. The public should be given opportunity to comment on interim measures unless it is determined that the measure is of an emergency nature or that public review, comment, and response to comment might result in delays which could be a threat to public health or the environment;
- ◆ Place documents in the information repository; and
- ◆ Prepare a response to comment;

Additional Public Participation activities:

- ◆ Public hearing;
- ◆ Public meeting or open house;
- ◆ Public Participation Plan; and/or
- ◆ Work notification of interim measures implementation

Corrective Measures Study

Corrective Measures Study (CMS): The CMS is an evaluation of remedial alternatives upon completion of the RFI or equivalent characterization.

Public Participation activities:

Make CMS Workplan and CMS available for review upon request.

Additional Public Participation activities - Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager can require:

- ◆ Mailing list update;
- ◆ Public notice in newspaper and on DTSC's web site;
- ◆ Fact sheet mailed to community and placed on DTSC's web site;
- ◆ Public hearing (if determined to be necessary or upon request);
- ◆ Set up or update an **information repository**;
- ◆ Prepare a response to comments; and
- ◆ Public meeting or open house.

Remedy Selection

Remedy selection: After a preferred remedy is tentatively selected, DTSC solicits public review and comment either through a department initiated permit modification or through an order. After considering and responding to public comment, DTSC either adopts the remedy, adopts it with changes or reconsiders other alternatives.

Public Participation activities:

The public participation requirements are the same for preferred remedy as for a draft permit (66271.5 et seq).

- ◆ Mailing list update;
- ◆ Public notice in newspaper and on DTSC's web site;
- ◆ Fact sheet mailed to community and placed on DTSC's web site;
- ◆ Public hearing (if determined necessary or upon request);
- ◆ 45-day review and comment period;
- ◆ Repository;
- ◆ Response to comments; and
- ◆ Notification of final decision.

Additional Public Participation Activities: Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager may require:

- ◆ Public meeting or open house;
- ◆ Extended public comment period.

Corrective Measures Implementation Requirements

Corrective Measures Implementation (CRI) Requirements:

Work Notification: Work notification describing the nature of the work, the dates, hours of work, any impacts on surrounding neighborhood, should be made available to the surrounding neighborhood and, if high interest, to the facility mailing list.

Public Participation activities: Based on the level of community interest, the Public Participation Specialist in consultation with the Project Manager may require:

- ◆ Public meeting;
- ◆ Placement of remedial design plans in repository;
- ◆ Fact sheet;
- ◆ Public notice; and
- ◆ Mailing list update.

Remedy Completion

The RCRA Public Participation Manual states it is EPA policy for the public to be given an opportunity to review and comment on all proposals to complete corrective action. Consistent with federal guidance, DTSC, by policy, requires public review and comment. A 45-day comment period should be conducted prior to certifying completion of a corrective action remedy.

Public Participation Under Code of Federal Regulations (CFR) 3008(h) Orders

Public participation under enforcement orders requires special considerations:

- **Limitations on public release of information:** Confidentiality of certain information must be maintained when DTSC is negotiating a consent agreement with a facility or when drafting a unilateral order. Close coordination with legal and permitting staff is necessary before providing information to the public regarding corrective action. Generally, this would be of concern early in the process, before the order is issued. However, additional constraints may be placed on information release if the facility fails to adhere to the order and further litigation is required.
- **RCRA 3008(H) does not specify public participation:** It is federal and state policy to include the same public participation requirements in an order as are required under permitting. DTSC has well established practice of conducting public participation throughout the corrective action process.
- **Unilateral Orders vs. Consent Agreements:** Under consent agreements, to the extent practical, DTSC may require the facility to conduct or participate in many of the public participation activities. For example, preparing or maintaining a facility mailing list for DTSC approval, or establishing and maintaining the public repository. Under a unilateral order, however, circumstances may warrant that DTSC conduct most or all public participation activities associated with the corrective action.

Statewide Compliance Division

Required Public Participation activities:

Public Participation should be coordinated for the following processes:

- ◆ When a treatment, storage, and/or disposal (TSD) facility is cited for violations of hazardous waste laws or regulations; and,
- ◆ During a small site clean up conducted by the State Compliance Division (SCD) using limited remedial measures.

Violations

Upon completion of an investigation by State Compliance Division, where violations are identified and fines/penalties will be levied against a Treatment Storage and Disposal (TSD) facility, the SCD staff, at the same time or before notifying the DTSC Information Officer (IO) for preparation of a press release, shall notify and consult with the appropriate PPS.

If the facility has had “high” or “moderate” community interest in previous permitting activities, it is likely there are key community members who should be

informed individually and simultaneously to the appearance of a newspaper article announcing DTSC's assessment of penalties. Timing is critical, and key interested parties should be notified in a manner other than the newspaper.

A communications strategy may be developed between the program staff, the Information Officer, and the Public Participation Specialist to coordinate the release of information. Phone calls or fact sheets are the most commonly used method to notify interested parties of violations at a treatment storage and disposal facility. **It should be stressed that this kind of information may be confidential and close coordination with compliance and legal staff is required in conducting public participation.**

Variations

DTSC has the authority to grant a variance from Title 22 permitting requirements for activities not regulated under RCRA if 1) the activity does not pose a potential hazard; or 2) the activity is adequately regulated by another agency. Each variance is considered on a case-by-case basis, and will not be issued for activities more appropriately authorized under a permit. The decision to grant or deny a variance is at DTSC's discretion. Each variance is public noticed in the California Z-Register which is published by the Office of Administrative Law [HSC Section 25143 (f)]. Variations do not require public participation activities; however, depending on the level of community interest, additional activities may be necessitated. CEQA must be complied with when issuing a variance. **If a negative declaration is prepared pursuant to CEQA for the variance then appropriate CEQA public participation activities must be conducted (public notice, 30-day comment period - see Chapter 5 of this manual.)**

Activities required at the discretion of the Public Participation Specialist in coordination with project management staff based upon an assessment of community interest:

- ◆ Phone log (optional);
- ◆ Document inquiries;
- ◆ Community assessment;
- ◆ Inform other agencies;
- ◆ Brief local officials;
- ◆ Information letter;
- ◆ Flyer mailed to community and placed on DTSC's web site;
- ◆ Newspaper legal notice which is also placed on DTSC's web site;
- ◆ 30-day public comment period;
- ◆ Notice of Final Decision;
- ◆ Monitor community interest.

Public Participation Activities During HWM Permitting Processes

Public Participation Activities	Low Interest Permit	High Interest Permit	Incin. BIF Permit	Incin. BIF Trial Burn	Class1 Permit Mod.	Class2 Permit Mod.	Class3 Permit Mod.	Non-PBR TTU Permit	PBR TTU Permit	Standardized Permit	RD&D Permit
Phone Log	0	0	0	0	0	0	0	0	0	0	0
Community Assessment	0	X	X	0			0		0		0
Community Profile	0	X	X	X			0		0	0	0
Community Survey	0	0	0	0			0		0	0	0
Public Participation Plan		X	X				0		0		0
Mailing List/update	X	X	X	X	X	X	X	X	X	X	X
Information Repository(ies)/ update	X	X	X	X	X	X	X	X	X	X	X
Inform Other Agencies	X	X	X	X	X	X	X	X	X	X	X
Brief Local Officials	0	X	X	X			X	0	0	0	X
Information Letter/Flyer	0	X	X	X			0		0	0	0
Fact Sheet	X	X	X	X			X	X	X	X	X
Public Notice	X	X	X	X	X	X	X	X	X	X	X
Newspaper Display Ad	X	X	X	X	X	X	X	X		X	X
Newspaper Legal Notice	0	0	0	0	0	0	0			0	0
Paid Radio Ad	X	X	X	X			X	X		X	X
Public Service Radio Spot	0	0	0	0			0	0		0	0
30-Day Public Comment Period				0							
45-Day Public Comment Period	X	X	X	0			X	X		X	X
60-Day Public Comment Period		0	0	0		X	X				0
90-Day Public Comment Period		0	0	0							0
Briefing		0	0	0			0				0
Workshop		0	0	0			0				0
Open House		0	0	0			0				0
Small Group Meeting		0	0	0			0				0
Public Hearing	0	X	X	0			0	0			0
Transcript	0	X	X	0			0	0			0
Analysis of Comments	X	X	X	X		X	X	X			X
Response to Comments	X	X	X	X		X	X	X			X
Notice of Final Decision	X	X	X	X		X	X	X			X
Monitor Community Interest	X	X	X	X	X	X	X	X			X

Legend: x = Required 0 = Optional

Public Participation Activities During HWM Permitting Processes (continued)

Public Participation Activities	Low Interest Permit	High Interest Permit	Incin. BIF Permit	Incin. BIF Trial Burn	Class1 Permit Mod.	Class2 Permit Mod.	Class3 Permit Mod.	Non-PBR TTU Permit	PBR TTU Permit	Standardized Permit	RD&D Permit
Public Participation File	X	X	X	X	X	X	X	X	X*	X	X
Document Inquiries	X	X	X	X	X	X	X	X	X*	X	X
Phone Log	X*	X*	X*	X*	X*	X*	X*	X*	X*	X*	X*
Community Assessment	X	X		X*	X*						
Community Profile		X									
Community Survey		X*									
Public Participation Plan		X*	X								
Mailing List	X	X	X	X	X	X	X	X	X*	X	X
Information Repository(ies)	X	X	X	X	X*	X	X	X	X*	X*	X
Inform Other Agencies	X	X	X	X	X*	X	X	X	X*	X	X
Brief Local Officials	X*	X*	X	X*			X*	X*			X*
Information Letter		X*	X*	X*				X*			
Flyer		X*	X*								
Fact Sheet	X	X	X	X			X	X	X*	X	X
Public Notice	X	X	X	X	X^	X^	X=	X	X*	X	X
Direct Mail	X	X	X	X	X^	X^	X=	X		X	X
Newspaper Display Ad	X	X	X	X	X^	X^	X=	X		X	X
Paid Radio Ad	X	X	X				X	X			X
Public Service Radio Spot	X*	X*	X*								X*
45-Day Public Comment Period	X	X	X				X	X			X
60-Day Public Comment Period		X*				X^	X^				
Briefing		X*	X*				X*				X*
Workshop		X*	X*				X*				X*
Open House		X*	X*				X*				X*
Small Group Meeting		X*	X*				X*				X*
Public Information Meeting		X*	X			X^	X^	X*			X*
Public Hearing	X*	X	X				X	X			X
Transcript	X	X	X				X	X			X
Analysis of Comments	X	X	X				X	X	X		X
Response to Comments	X	X	X				X	X	X		X
Notice of Final Decision	X	X	X				X	X	X		X
Monitor Community Interest	X	X	X		X	X	X	X			X

Legend:

X Required X* Discretion of the PPS X^ Facility Responsibility X= Facility & DTSC Responsibility

Public Participation Activities During HWM Permitting Processes (continued)

Public Participation Activities	Emergency Permit	SEB Clean Up	All Variances	Temp. Author.	Correct Action RFI	Correct Measures Study	Permit Appeal Grant Denied	Low Interest Closure	High Interest Closure	CEQA Negative Declaration	CEQA Env. Impact Report
Document Inquiries	0	X	0	0	X	X	X	X	X	0	0
Community Assessment		X	0		X	X	X	0	X		
Community Profile				X	X		0	X			
Community Survey					0	0		0	0		
Public Participation Plan						0			0		
Mailing List/update	X	X	0	X	X	X	X	0	X	X	X
Information Repository(ies)/ update		X	0	0	0	X	X	0	X		
Inform Other Agencies	X	0	0		X	X	X	X	X	0	0
Brief Local Officials		0	0	0	0	0			0	0	0
Information Letter		0	0		0				0		
Flyer			0								
Fact Sheet	0	X	0		0	X		0	X	0	0
Public Notice	X	X	0	X	0	X	X	X	X	X	X
Newspaper Display Ad	0	X		X	0	X	X	X	X	X	X
Newspaper Legal Notice	0		0				0	0	0	0	0
Paid Radio Ad	X					X		0	0	0	0
Public Service Radio Spot	0					0		0	0	0	0
30-Day Public Comment Period			0		0			X	X	X	
45-Day Public Comment Period					0	X			0		X
60-Day Public Comment Period					0	X			0		0
90-Day Public Comment Period									0		0
Briefing						0			0		0
Workshop						0			0		0
Open House						0			0		0
Small Group Meeting						0			0		0
Public Scoping Meeting											X
Public Hearing						0		0	X	0	X
Transcript						0		0	X	0	X
Analysis of Comments						X			X		X
Response to Comments						X		X	X		X
Notice of Final Decision			0			X	X	X	X		X
Monitor Community Interest	0	0	0								

Legend: x = Required 0 = Optional

The Permitting Process

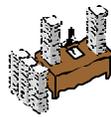


Technical Process

Receipt of Application



DTSC Reviews Application



Determination of Technical Completeness



Draft Permit or Notice of Intent to Deny



Final Permit Decision



Required Public Participation Activities

Applicable CEQA Requirements



Public Notice & Fact Sheet



Public Comment Period



Public Hearing if Necessary



Notice of Decision & Response to Comments



Recommended Public Participation Activities

Community Assessment



PP Plan



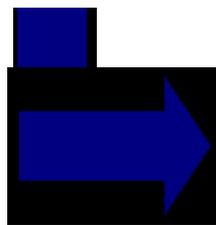
Repository Fact Sheets



Informal Meetings Workshops



News Release



Department of Toxic Substances Control
Public Participation Manual

CHAPTER 5
PUBLIC PARTICIPATION DURING CEQA

Chapter 5 ♦ Public Participation During CEQA

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Public Participation During CEQA

Overview

The California Environmental Quality Act (CEQA) was signed into law in 1970 (Public Resources Code; § 21000 et seq). Among its provisions, CEQA requires public agencies carrying-out or approving a project to conduct an environmental analysis to determine if project impacts could have a significant effect on the environment. Typically, the agency having principal authority over a project is the entity responsible for conducting the environmental analysis. Such agencies are referred to as *Lead Agencies*. As a public agency, DTSC is subject to the requirements of CEQA. The Office of Environmental Analysis, Regulation & Audits (OEARA) is responsible for review and approval of CEQA documents prepared by programs, and for providing overall CEQA technical guidance and policy direction within DTSC. (Refer to Document #EO-93-001-PP entitled *Department Compliance with the Requirements of CEQA*, July 1993).

Public participation is a mandated and essential component of CEQA. In a 1986 court case, it was emphasized that “... the public holds a ‘privileged position’ in the CEQA process ‘based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making’.” (1992 State CEQA Guidelines, Section 15201). Refer to “CEQA Requirements and Processes” for a complete listing of the public participation requirements under CEQA.

All proposed projects for which the DTSC has discretionary decision-making authority are subject to CEQA if they potentially impact the environment. DTSC approval actions which require CEQA review and documentation include, but are not limited to:

- ◆ Remedial Action Plans
- ◆ Interim Remedial Measures
- ◆ Removal Action Workplans
- ◆ Pilot Studies
- ◆ Corrective Action
- ◆ Facility Permit Determinations
- ◆ Facility Closures Plans
- ◆ Permit Modifications

- ◆ Temporary Authorization
- ◆ Variances
- ◆ Emergency Permits
- ◆ Technology Certification Decisions
- ◆ Research, Development and Demonstration Projects

Programs should contact OEARA if it is uncertain whether CEQA needs to be addressed for a particular activity.

Statutory, Regulatory and Policy Authorities

Public Resources Code § 21000 et seq

CEQA

California Environmental Quality Act (CEQA). CEQA requires state and local agencies to disclose and consider the environmental implications of their decisions, and to eliminate or reduce the significant environmental impacts of their decisions whenever it is feasible to do so. Throughout the CEQA process, certain public participation requirements are prescribed.

Title 14, CCR § 15000 et seq

- ◆ The State CEQA Guidelines. These are the CEQA regulations and are labeled “guidelines” because they contain many advisory and permissive interpretations in addition to mandatory requirements. These guidelines are binding on all state and local agencies when implementing CEQA.

The guidelines are revised on a regular basis. The latest substantive revision of these guidelines is the October 26, 1998 CEQA Guidelines Revisions.

- ◆ Title 14, CCR §15201. Declares the importance of public participation as an element of the CEQA process. It requires each agency to include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency’s activities. Title 14 also provides for public involvement in the identification and analysis of project impacts as described in Chapters 4 and 5 of this manual.
- ◆ Title 14, CCR §15201 and 15202 of the 1998 CEQA Guidelines Revisions provide:
 - ◆ That each public agency should include in its CEQA procedures making environmental information available in electronic format on the Internet, whenever possible.
 - ◆ To the extent the public agency maintaining a web site, notice of all CEQA public hearings should be made available in electronic format on that site.

DTSC CEQA Policies and Procedures

- ◆ Document # EO-93-001-PP, Entitled *Department Compliance with the Requirements of CEQA*, (July 1993), this document outlines DTSC commitment to complying with the provisions of CEQA within all affected DTSC programs. (Refer to Appendix C in this manual.) This, and subsequent guidance documents, policies and procedures require DTSC programs to contact the Public Participation Branch for guidance in complying with CEQA community involvement activities. The Public Participation Branch is responsible for conducting the following activities:
 - 1) Provide consultation to program staff and management regarding the public interest of sites and facilities; and
 - 2) Develop and plan public participation activities to ensure the public has the opportunity to participate in the CEQA process.
-

Roles and Responsibilities

Lead Agency

Lead Agency means the public agency, which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or Negative Declaration will be required for the project, and will cause the document to be prepared. (Title 14, CCR § 15367) This is generally determined through preparation of an *Initial Study*, which evaluates the impacts of project activities on various environmental media. If the Initial Study concludes that impacts can be avoided or mitigated to a level of insignificance, DTSC may prepare a Negative Declaration. If impacts are found to exist that could not be mitigated, then an environmental impact report (EIR) would be required. As a Lead Agency, DTSC is responsible for conducting the following:

- ◆ CEQA compliance consultation;
- ◆ Scoping meetings (EIR only);
- ◆ Preparation and circulation of CEQA documents; and
- ◆ Final CEQA determination.

Note: Procedures for conducting Lead Agency environmental analyses are contained in previous DTSC policy and procedure documents and memorandum. Contact the Office of Environmental Analysis, Regulations & Audits for information.

Responsible Agency

Responsible Agency means a public agency, which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term “Responsible Agency” includes all public agencies other than the Lead Agency, which have discretionary approval power over the project. (Title 14, CCR §15381)

DTSC often acts as a Responsible Agency for projects it intends to carry out or approve. Such projects include site mitigation or remediation activities, permitting activities or regulation development activities. In certain cases, the DTSC project may be an aspect of an overall larger project (e.g., construction of a shopping mall vs. removal of contaminated soil) or the same project but with different regulatory authority as that of the Lead Agency (e.g., permitting of a hazardous waste facility vs. land use approval). Depending on a multitude of factors such as timing, coordination among agencies and the degree to which the Lead Agency and DTSC assume oversight authority, the environmental analysis prepared by the Lead Agency must be relied upon by DTSC in meeting its statutory responsibilities under CEQA. DTSC as a Responsible Agency (with certain rare exceptions):

- ◆ Participates in scoping meetings; and
- ◆ Reviews and comments on CEQA documents.

Note: Procedures for conducting Responsible Agency environmental analyses are contained in previous DTSC policy and procedure documents and memorandum. Contact the Office of Environmental Analysis, Regulations & Audits for information.

Trustee Agency

Trustee Agency means a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. (Title 14, CCR § 15386) These agencies are often consulted with the Lead Agency when projects are undertaken in areas which fall within their specific jurisdiction.

Trustee Agencies include:

- ◆ The California Department of Fish and Game with regard to the fish and wild-life, designated rare or endangered native plants, and game refuges, ecological reserves, and other areas administered by the department;
- ◆ The State Lands Commission with regard to state owned “sovereign” lands such as the beds of navigable waters and state school lands;
- ◆ The State Department of Parks and Recreation with regard to units of the State Park System;
- ◆ The University of California with regard to sites within the Natural Land and Water Reserves System.

Trustee Agencies are often called upon to:

- ◆ Participates in scoping meetings; and
- ◆ Review and comment on CEQA documents.

The Public

Under CEQA, the public is afforded input into DTSC's decision-making process before and during the public review and comment period on environmental documents, and is afforded the ability to challenge the CEQA decision during the legal challenge period. The public:

- ◆ Participates in the public scoping meeting;
 - ◆ Review and comment on CEQA documents;
 - ◆ Participates in public hearings; and
 - ◆ Enforces CEQA through judicial action.
-

DTSC Project Manager

The DTSC individual having primary responsibility over a project is referred to as the *Project Manager*. The Project Manager is responsible for:

- ◆ Ensuring that DTSC complies with the public participation requirements of CEQA;
 - ◆ Preparing the Initial Study, draft and final environmental documents required under CEQA;
 - ◆ Establishing and maintaining inter-office and inter-agency coordination through management of communication;
 - ◆ Managing and overseeing all technical activities conducted;
 - ◆ Creating the time frame for completion of the project; and
 - ◆ Possibly assuming the public participation lead for a site, utilizing guidance from the Public Participation Specialist.
-

DTSC Public Participation Specialist

The DTSC individual having primary responsibility over public participation activities related to a project is referred to as the *Public Participation Specialist*. The Public Participation Specialist is responsible for:

- ◆ Supporting the Project Manager in inter-agency coordination;
- ◆ Providing comments on all documentation going out for public review (e.g., EIR, Negative Declaration, and Initial Study);
- ◆ Providing input and approving all public participation documents and activities (public notices, fact sheets, meetings, etc.);
- ◆ Advising the Project Manager and OEARA staff on issues of community concern and involvement; and
- ◆ Reviewing and providing comments on the Response to Comments.

DTSC Environmental Planner

The DTSC individual having primary responsibility for providing CEQA technical oversight over a project is referred to as the *Environmental Planner*. The Environmental Planner within the *Office of Environmental Analysis, Regulations and Audits* is responsible for:

- ◆ Providing CEQA technical support to program staff on all environmental documents;
 - ◆ Reviewing and approving all CEQA documents prepared by programs within DTSC;
 - ◆ Coordinating with the State Clearinghouse on the circulation and filing of CEQA documents to state agencies; and
 - ◆ Reviewing and approving portions of the Response to Comments that relate to CEQA comments and issues.
-

The CEQA Process

Preliminary review of a project to determine CEQA applicability

Once sufficient information about a proposed activity has been submitted to the Project Manager consistent with the requirements of the program in which approval is sought, a determination is made as to whether the activity is subject to the environmental review process under CEQA. This determination is made before an Initial Study is undertaken. An activity is subject to CEQA if:

- ◆ The activity involves the exercise of discretionary powers by a public agency;
- ◆ The activity will result in a direct or reasonably foreseeable indirect physical change in the environment eliminate period; or
- ◆ The activity is a “project” as defined in Title 14, CCR §15378.

Upon completion of the review, the Project Manager is advised to provide the Public Participation Specialist with a summary of the review. Based upon this information, and the current knowledge of the community’s concerns, the Project Manager consults with the Public Participation Specialist regarding the following activities:

- ◆ Initial assessment of community interest;
- ◆ Mailing list development;
- ◆ Location of information repositories; and
- ◆ Other appropriate public participation activities.

Review for CEQA Exemption

If an activity is found to be subject to CEQA based on the preliminary review of activity information, the Project Manager then reviews the proposed project to determine if it may be categorically or statutorily exempt from CEQA. Management Memorandum EO-94-012-MM, entitled *Exemptions and Preparation of NOEs*, provides guidance for DTSC staff on exemption evaluations. OEARA is responsible for the review and approval of all exemption requests and for filing of NOEs with the Governor's Office of Planning and Research (OPR).

Pursuant to Title 14, CCR §15201, if a NOE is filed, there is a 35-day statute of limitations for legal challenge. However, if a NOE is not filed, there is a 180-day statute of limitations. In summary, the following activities need to be performed:

- ◆ The NOE is filed with the OEARA, and the Public Participation Branch is copied;
 - ◆ OEARA files the NOE with OPR; and
 - ◆ If appeals are received, the Project Manager notifies the Public Participation Branch and OEARA.
- .. **Public Notice of Exemption:** Pursuant to DTSC procedures (EO-94-012-MM), NOEs should be public noticed (and placed on DTSC's web site) if the project being exempted requires public notice. For example, if a draft closure plan (CP) or draft interim measure (IM) is considered CEQA exempt, the public notice announcing a comment period on the draft CP or draft IM shall include a statement that the draft NOE is also available for public review and comment. If significant comments are received on the NOE, DTSC shall include responses in the project's Response to Comments. If DTSC determines, after considering comments, that any part of the NOE package should be changed, appropriate changes should be made.

Preparation of an initial study

If the proposed project is not exempt from CEQA, or it is unclear whether an Environmental Impact Report (EIR) is required, an *Initial Study* is conducted in-house by the Project Manager to determine if the project may have a significant effect on the environment. (Refer to Policy and Procedures EO-93-033, regarding In-House Preparation of Initial Studies, September 30, 1993.) An Initial Study is defined as a preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR. (Title 14, CCR § 15365)

Preparation of a draft Negative Declaration/Mitigated Negative Declaration

If the Initial Study concludes that a draft Negative Declaration or Mitigated Negative Declaration is the appropriate document to be prepared, the Project Manager prepares the draft document and forwards it along with the Initial Study to OEARA for review and approval following procedures established in Policy and Procedures Document #EO-93-001 (See Appendix C for time lines and approval authority).

- .. **Public noticing:** Upon approval of the draft Negative Declaration/Mitigated Negative Declaration, the Project Manager is required under CEQA to provide public notice of the availability of the draft Negative Declaration or Mitigated Negative Declaration for public review. The Project Manager must:
 - Send 15 copies of the draft document, the Notice of Completion/Environmental Document Transmittal Form and the applicable Initial Study to the OPR. Copies must also be sent to affected local agencies having an interest in the project and the OEARA project liaison.
 - Send one copy of the Notice of Completion/Environmental Document Transmittal Form to the county clerk where the project is located. A copy of the draft Negative Declaration and Initial Study should not be sent to the county clerk unless requested. (See DTSC CEQA Guidance Document: *Public Notice Requirements under the California Environmental Quality Act* dated October 16, 1995)

The public notice must be posted for a minimum of 20 days unless otherwise required by law to be 30 days. The notice must be placed in a newspaper of general circulation in the affected area, posted on and off the project site, and mailed to owners and occupants of the property contiguous to the project.

- .. **Public notice content:** Pursuant to Title 14, CCR § 15072 (f), a notice of intent to adopt a Negative Declaration or Mitigated Negative Declaration must specify the following:
 - A brief description of the proposed project and its location.
 - The starting and ending dates for the period during which the lead agency will receive comments on the proposed Negative Declaration or Mitigated Negative Declaration. If the review period has been shortened pursuant to Section 15105, the notice shall include a statement to that effect.
 - The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project, when known to the lead agency at the time of notice.
 - The address or addresses where copies of the proposed Negative Declaration or Mitigated Negative Declaration including the revisions developed under Section 15070(b) and all documents referenced in the proposed Negative Declaration or Mitigated Negative Declaration, are available for review.

- ✱ The presence of the site on any of the lists enumerated under Section 65962.5 of the Government Code including, but not limited to lists of hazardous waste facilities, land designated as hazardous waste property, and hazardous waste disposal sites, and the information in the Hazardous Waste and Substances Statement required under subsection (f) of that section.
 - ✱ Other information specifically required by statute or regulation for a particular project or type of project.
- .. **Information repositories:** The Initial Study and Negative Declaration are placed at information repositories. This location or locations shall be readily accessible to the public during the lead agency's normal working hours.
- .. **Direct mailings:** Copies of the Initial Study, draft Negative Declaration or Mitigated Negative Declaration and public notice are directly mailed to Responsible Agencies, Trustee Agencies and other agencies with jurisdiction (14CCR § 15073);
- .. **Response to comments:** CEQA requires that the lead agency consider the proposed Negative Declaration or Mitigated Negative Declaration together with comments received during the public comment period, prior to reaching a final decision on the project (Title 14, CCR § 15074). DTSC policy also requires a written response to comments.

If, after public review, DTSC decides that mitigation measures outlined in the draft Mitigated Negative Declaration are infeasible, it may substitute equivalent or more effective mitigation measures. If this is the case, a **public hearing** is required to collect testimony on the matter (CPRC § 21080). If the new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures does not require recirculation of the Mitigated Negative Declaration, a public comment period or a responsiveness summary (CPRC § 21000). The following activities are suggested prior to the public hearing:

- ✱ Development of a fact sheet; and
 - ✱ Development of public notice.
- .. **Recirculation prior to adoption:** DTSC is required to recirculate a Negative Declaration or Mitigated Negative Declaration, when the document must be substantially revised after public notice of its availability has previously been given pursuant to Title 14, CCR § 15072 and 15073.
- .. **Notice of Determination:** Upon approval of a project for which a Negative Declaration or Mitigated Negative Declaration has been approved, DTSC is required to file a Notice of Determination (NOD) pursuant to Title 14, CCR § 15075. The NOD must include the following:
- ✱ An identification of the project including its common name where possible, and its location.

- ✿ A brief description of the project.
- ✿ The date on which the agency approved the project.
- ✿ The determination of the agency that the project will not have a significant effect on the environment.
- ✿ A statement that a Negative Declaration or a Mitigated Negative Declaration has been prepared pursuant to the provisions of CEQA.
- ✿ The address where a copy of the Negative Declaration or Mitigated Negative Declaration may be examined.

A copy of the NOD is also sent to the mandatory mailing list, and others who have requested a copy of the NOD. (This mailing may be done in conjunction with mailing the response to comments document and the decision document for the project.) The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (14CCR § 15075).

Environmental Impact Reports

Certain projects may necessitate preparation of an EIR if the project will or may have a significant effect upon the environment. Generally, this determination is made following preliminary review of a project application or technical study or upon completion of an Initial Study. In addition, preparation of an EIR or, if appropriate, a supplement or addendum to an EIR, is mandatory for certain types of hazardous waste projects (PRC § 21151.1).

- **Notice of Preparation:** Immediately after deciding that an EIR is required for a project, the Project Manager is required to prepare and file a *Notice of Preparation* (NOP) with OPR following established DTSC procedures (see *DTSC Guidance Document: Public Notice Requirements Under the California Environmental Quality Act* dated October 16, 1995). At a minimum, the NOP shall include:
 - ✿ A description of the project;
 - ✿ Location of the project indicated either on an attached map (preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name, or by a street address in an urbanized area), and
 - ✿ Probable environmental effects of the project.

As a Lead Agency, DTSC may begin work on the draft EIR immediately without awaiting responses to the NOP. The draft EIR in preparation may need to be revised or expanded to conform to responses to the NOP. DTSC is prohibited from circulating a draft EIR for public review before the time period for responses to the NOP has expired.

- **Scoping meetings:** Title 14, CCR § 15082 allows a Lead Agency, a Responsible Agency, a Trustee Agency, or a project applicant the opportunity to request one or more meetings between representatives of the agencies involved in a project to assist the Lead Agency in determining the scope and content of the environ-

mental information which the Responsible Agency may require. Such meetings, often referred to as *scoping meetings*, must be convened by the Lead Agency as soon as possible, but no later than 30 days after the meetings were requested.

Public scoping meeting are encouraged for all high-interest projects, such as new incinerators and treatment storage and disposal facilities. The targeted audience for such scoping meeting is dependent upon the level of community and agency interest. To determine which audience the scoping meeting should be directed to, consult with the Public Participation Specialist. Additional guidance on meetings and consultation can be found in the DTSC Guidance Document #EO-93-035-MM entitled *Meetings and Consultation Pursuant to the California Environmental Quality Act*, dated January 5, 1994.

- **Notice of Completion:** A Notice of Completion (NOC) is required to be filed with OPR indicating that a draft EIR has been completed (Title 14, CCR § 15085). The Project Manager is responsible for completing and forwarding the NOC package to OEARA for approval and subsequent filing with OPR. The NOC is to be submitted to OPR simultaneously with the public noticing of the draft EIR.
- **Public notice of the draft EIR:** Upon completion and approval of a draft EIR by the Branch Chief, the Project Manager must send 15 copies of the documents and one copy of the Notice of Completion/Environmental Document Transmittal Form to OPR. Copies must also be sent to affected agencies having interest in the project, and the OEARA project liaison.

In addition, the Project Manager must send one copy of the Notice of Completion/Environmental Document Transmittal Form to the county clerk of the county where the project is located. A copy of the draft EIR need not be sent to the county clerk unless requested.

DTSC must also provide public notice of the availability of the draft EIR for public review. (CPRC §15087 and §21092). The public notice must be published in a newspaper of general circulation (if more than one geographic area is affected, the newspaper with the largest general circulation in the affected areas must be used), placed on DTSC's web site, and shall include:

- ◆ Project description and location, including the anticipated significant effects;
- ◆ A 45-day public comment period;
- ◆ Identification of the lead agency;
- ◆ Location of information repositories; and
- ◆ Date and time of any public meeting or hearing (if applicable).

The Public Notice must be:

- ◆ Posted on and off the site in the area of the proposed project;
- ◆ Mailed directly to those on the project mailing list, which must include contiguous property owners and occupants (a 1/4 mile radius shall be used

for a proposed project involving the burning of hazardous waste or refuse-derived fuel); and

- Placed, along with the Initial Study (if prepared) and the draft EIR, in the information repositories (public libraries in the affected areas and DTSC office).

•• **Response to Comments:** CEQA Guidelines require the lead agency to evaluate comments on a draft EIR and prepare a written response. Written responses should explain whether the draft EIR was changed as a result of the comment or the reasons why specific comments and suggestions were not accepted. The Project Manager is responsible for:

- Forwarding a copy of the draft Response to Comments to the assigned Public Participation Specialist and OEARA for review and comment prior to release;
- Ensuring that a copy of the final Response to Comments is mailed to those who provided comments; and
- Ensuring that the final Response to Comments package is sent to information repositories.

•• **Notice of Determination:** The Notice of Determination (NOD) is prepared after DTSC decides to approve a project for which an EIR has been completed (Title 14, CCR § 15094). This notice is usually done concurrently with the public notice that the final EIR is available to the public. DTSC is required to recirculate an EIR when the document must be substantially revised after public comment (Title 14, CCR § 15073.5). State agencies are not required to file a NOD with the county clerk. They are only required to file with OPR. Upon receipt, there is a 30-day statute of limitations during which court challenges to the decision can be made. The notice shall include:

- An identification of the project including its common name where possible and its location.
- A brief description of the project.
- The date when the agency approved the project.
- The determination of the agency whether the project in its approved form will have a significant effect on the environment.
- A statement that an EIR was prepared and certified pursuant to the provisions of CEQA.
- Whether mitigation measures were made a condition of the approval of the project.
- Whether findings were made pursuant to Section 15091.
- Whether a Statement of Overriding Considerations was adopted for the project.
- The address where a copy of the final EIR and the record of project approval may be examined.

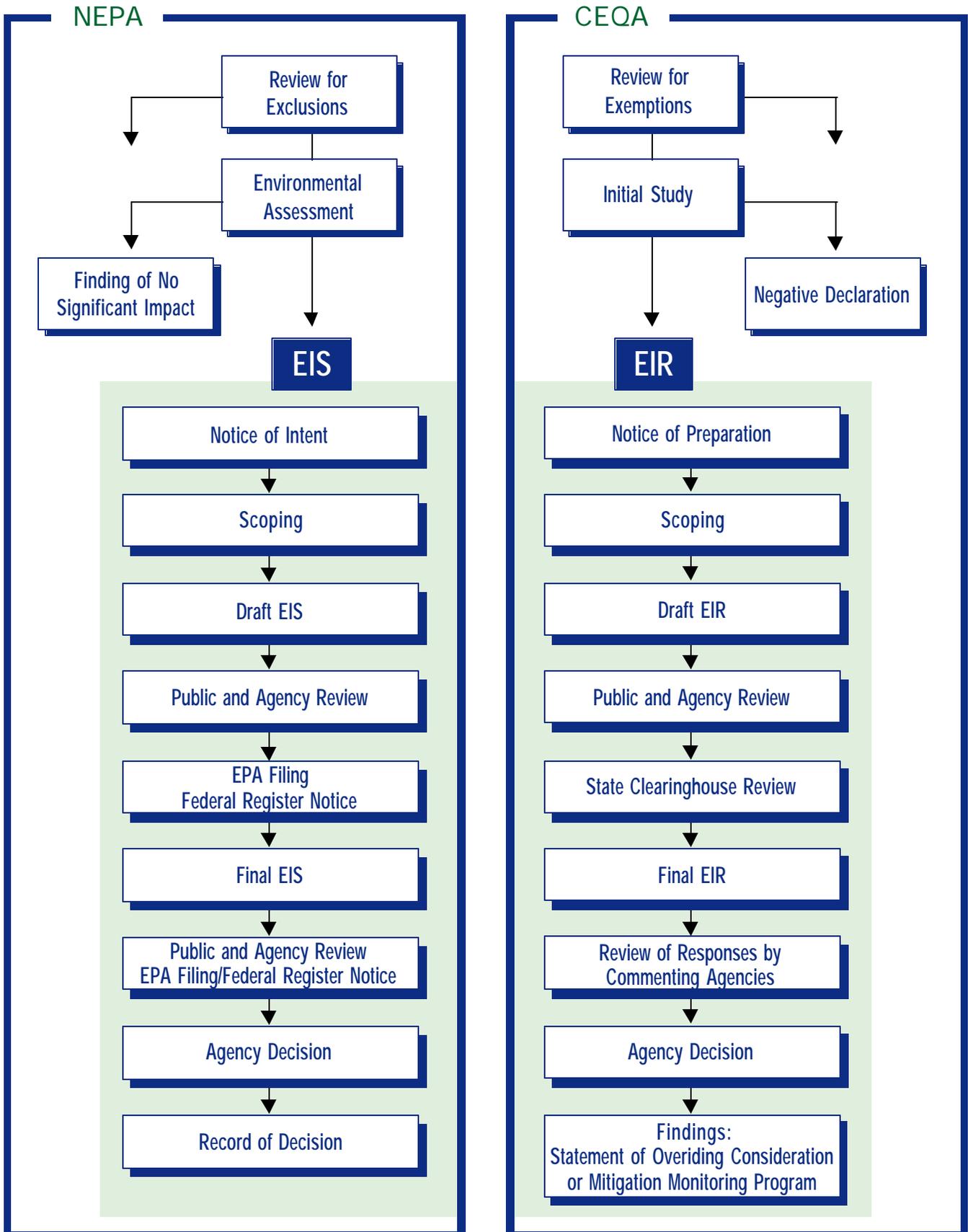
Note: Additional guidance on filing of NODs can be found in existing DTSC guidance documents (see *DTSC Guidance Document: Public Notice Requirements Under the California Environments Quality Act* dated October 16, 1995).

Final CEQA Documents

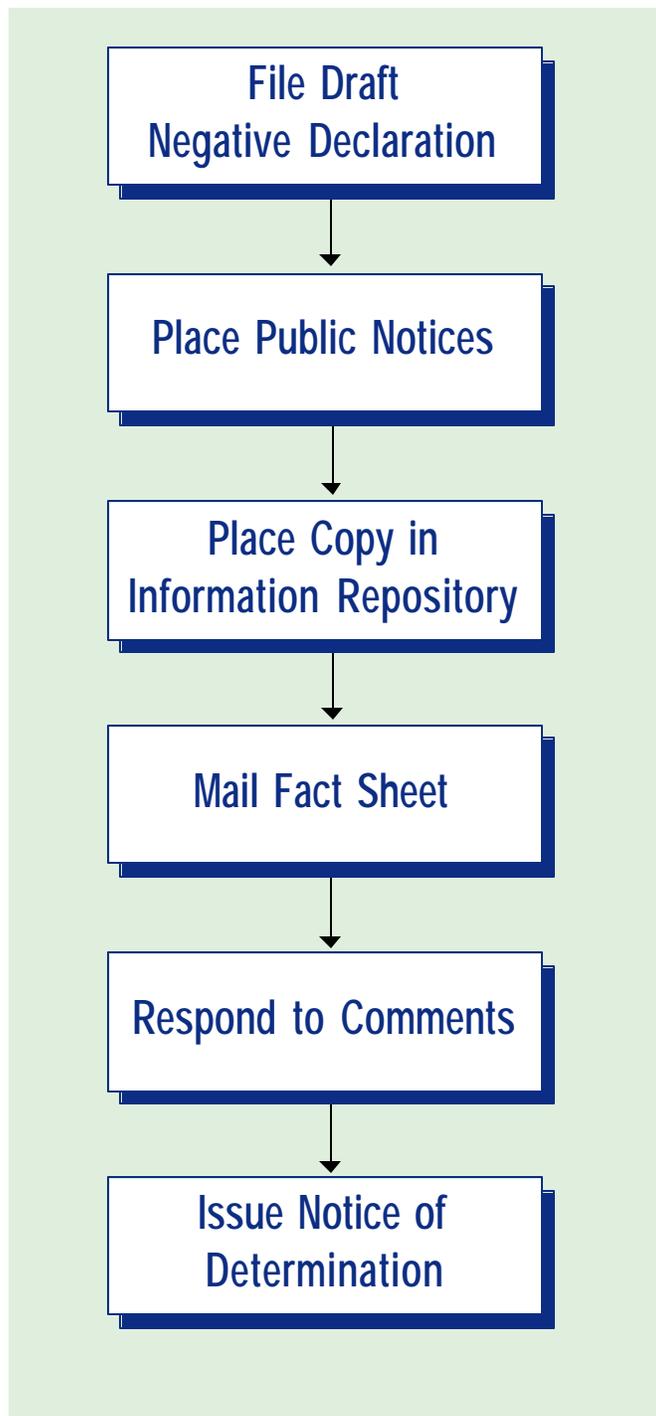
The final CEQA documents are sent to:

- ◆ Information repositories;
- ◆ Responsible agencies;
- ◆ Trustee agencies;
- ◆ Other agencies with jurisdiction; and
- ◆ OEARA

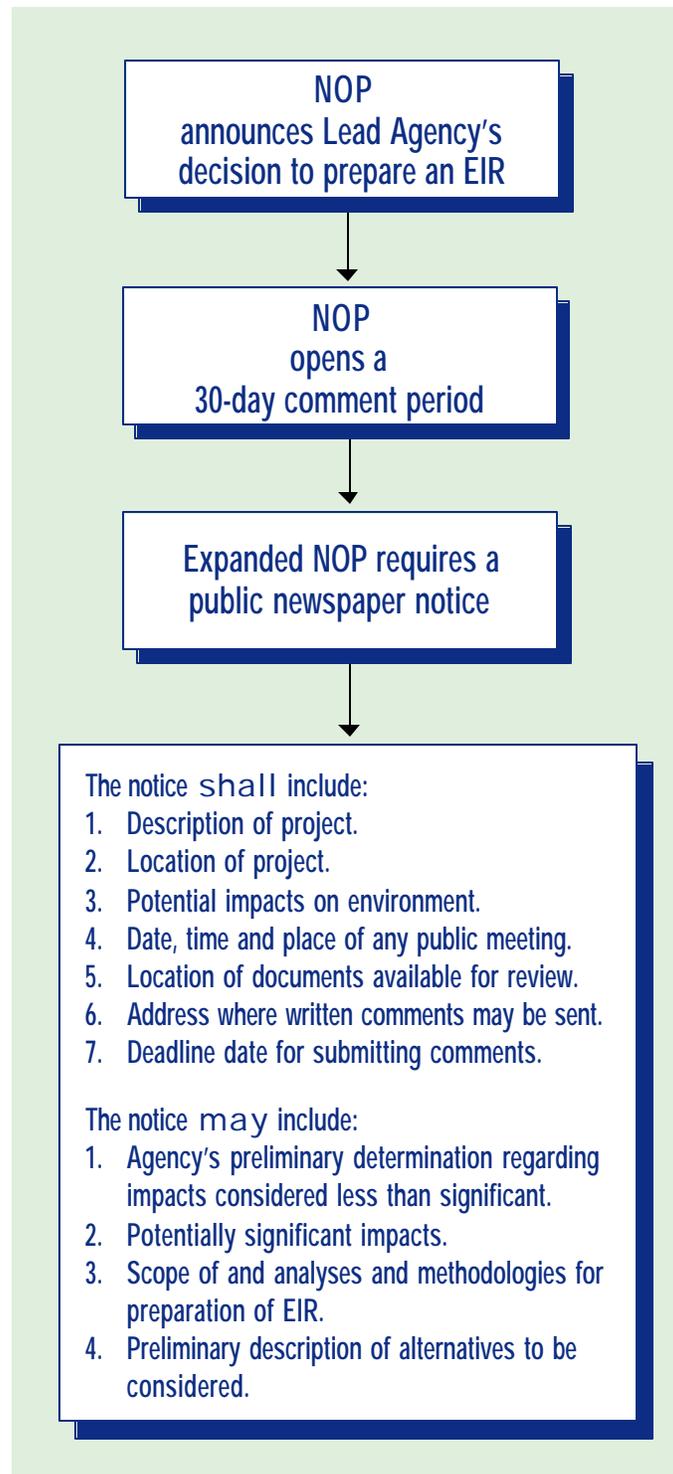
NEPA and CEQA: Parallel Processes



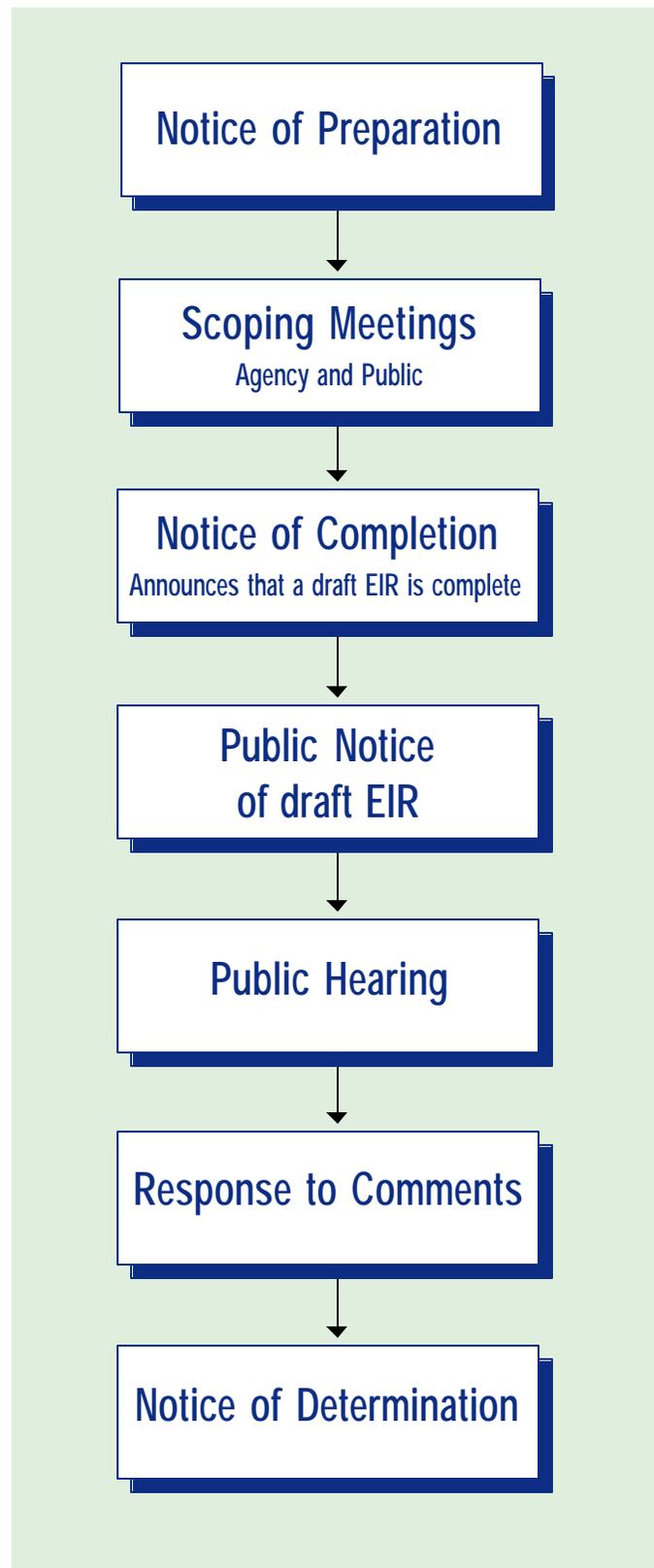
Public Participation in the Negative Declaration Process



Public Participation for Notice of Preparation (NOP)



The EIR Process for Permits



Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6

PUBLIC PARTICIPATION
TASKS AND TECHNIQUES

Chapter 6 ♦ Public Participation Tasks and Techniques

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Department of Toxic Substances Control
Public Participation Manual

CHAPTER 6 SECTION A
Community Assessment Process

Chapter 6, Section A

Community Assessment Process

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Public Participation Tasks and Techniques

Section A ♦ Community Assessment Process

Overview

The community assessment process allows DTSC to consider potential community interest and informational needs at a hazardous waste facility or a site early in the technical process. Community assessment also helps DTSC to anticipate the nature of possible community concerns and inquiries, and respond appropriately to those inquiries.

There are several types of community assessment, which can be performed, depending upon what is already known about the community's level of interest, the significance of the site or permit action being proposed, and staff resources available. These include:

- .. **Community Profile** - Required during Preliminary Environmental Assessment process, (thumbnail sketch of community, newspaper articles), and provided by the Responsible Party.
- .. **Baseline Community Survey** - Required prior to commencement of remedial investigation to corrective action and closure projects. Evaluate potential interest in a project. Also done for facility permits.
- .. **Community Interviews** - Required prior to commencement of Remedial Investigation/Feasibility Study field work. Required for "high" community interest removal actions, facility permits, and RCRA Facility Investigation (RFIs).
- .. **RAPID Informal Assessment** - Used to informally and quickly determine the impacted community and its concerns during and after an accidental release of hazardous materials or waste.

The decision on what type of assessment is appropriate in a given situation is to be made by the Public Participation Specialist assigned to the project using the following guidelines.

The first step in the community assessment process is to do a rough evaluation of potential community interest at a given site/facility. (See Exhibit 6-1) To judge the level of community interest at a site/facility, project staff should review the following:

- ◆ Review DTSC files and records of public inquiries about the site or facility.
- ◆ Review DTSC public participation file, if one already exists. If not, this is the time to create a PP file.

A community profile is a report submitted to DTSC by a proponent/applicant under the Fee-For-Service or Voluntary Cleanup programs, or as part of the Preliminary Endangerment Assessment (PEA) process. The profile is used to obtain a “thumbnail sketch” of a community. This is necessary to evaluate whether public involvement activities are warranted at a given time and to identify sites or facilities with “high” community interest or concern early in the process. Refer to Exhibit 6-2, Community Profile Outline.

Responsibilities

Community Profile Task Responsibilities

Timing

The Preliminary Endangerment Guidance Manual (1994), requires that a community profile be prepared for each Preliminary Endangerment Assessment (PEA). However, California Assembly Bill (AB) 2655 (signed into law in September 2000) specifies that only school sites requiring further response actions beyond a PEA are mandated to comply with Superfund public participation requirements set forth in the California Health and Safety Code (HSC). Community Profiles are required by HSC Section 25356.1(h)(1). For all site mitigation sites, except school sites. The community profile should be submitted by the project proponent, along with their Preliminary Endangerment Assessment work plan. This profile must be reviewed by a Public Participation Specialist to determine what activities are warranted. Sites with “high” community interest or concern may require public participation support at this early stage.

In instances when a draft Preliminary Endangerment Assessment report is submitted to DTSC for review without prior review of the work plan, the community profile must be submitted with the draft document. In any case, the community profile must be evaluated by a Public Participation Specialist prior to its approval.

A community profile is also submitted to DTSC by a proponent under the Voluntary Cleanup program. This community profile is used by the Public Participation Specialist to help estimate the number of Public Participation Specialist hours that are necessary for the proposed project.

Community profiles for school sites with recommendations for further action should be prepared during the PEA Public Comment Period conducted by the school district. The school district should submit the community profile to DTSC for review and approval upon completion of the public comment period.

Exhibit 6-1

Community Interest Evaluation Worksheet

The following criteria can be used as general guidelines for evaluating whether the level of community interest is “high” or “low” for a specific project. No single answer will necessarily determine if a project is of high interest, rather the answers should be evaluated by the Public Participation Specialist and project manager as a whole. This determination is useful for developing an appropriate and responsive public participation program. These are only general guidelines and cannot replace a site-specific community assessment. Also, it should be recognized that community interest may change at any point during the site mitigation or hazardous waste management process. Therefore, the project staff and Public Participation Specialist should continually monitor community interest.

Project Type	“High” Interest Criteria	Yes	No
ALL	Site is close to residences, schools or businesses or other sensitive populations.		
ALL	Site may pose a risk to public health or the environment. There are obvious exposure pathways, such as ground or surface waters, dust, odors or prevailing winds, by which contaminants could reach humans or wildlife.		
ALL	Local community believes that the site may pose health risk.		
ALL	The community has demonstrated previous interest in toxics or other environmental issues.		
ALL	Local officials, citizens and other agencies are familiar with the project and have concerns.		
ALL	Site location has been the subject of a high level of public interest, as evidenced by media coverage or other community activity.		
ALL	Local communities are concerned that property values may decline because of the site.		
ALL	Local communities have a negative view of, or questions, DTSC credibility.		
ALL	There have been community inquiries, either to DTSC or other local agencies.		
ALL	There are numerous hazardous waste facilities or sites within one geographical location (e.g., city limits or particular neighborhood).		
ALL	The site may become an election issue or have political ramifications.		
HWMP	The application is for a land disposal closure or permit for retrofitting.		
HWMP	The application is for an incineration or boilers and industrial furnaces (BIF) permit. NOTE: It is the DTSC policy to classify ALL incinerator permit applications as “high” interest.		
HWMP	Permit applicant or facility has a poor reputation within the community.		
HWMP	The proposed technology (i.e., incinerator, landfill, commercial treatment & storage facility) has a negative reputation within the community.		
HWMP	The permit application is for a large, commercial treatment and storage facility.		

Exhibit 6-2 ♦ Community Profile Outline

All major headings and bullet items in Exhibit 6-2 should be addressed. Additional guidance is provided in the Exhibit in italic. Upon completion the Community Profile shall be submitted to the DTSC for review and approval by the Public Participation Specialist.

Site/Project Name: _____

Site/Project Description

- ◆ **Description of proposed project:** *What is the nature of the project? Are there suspected or known releases of hazardous substances? What are they? What is the stage of the project; PEA, site investigation? Is it a hazardous waste facility permitting/closure project? Describe. Is it part of a larger site or facility? Is there a schedule for completion? What are the current /past business operations at the site?*
- ◆ **Location and size of site/project:** *Address and size of the site.*
- ◆ **Location of other nearby Cal/EPA or U.S. EPA projects, if known.**
- ◆ **Description of surrounding land uses and environmental resources including proximity to residential housing, schools, churches, etc.** *What is the current zoning/land uses for the site and for immediate surrounding land? Are there agricultural, wetlands or other environmental resources nearby? What is the nearest residence, school, day care center and other sensitive receptors? Are there planned changes in land use?*
- ◆ **Map:** *Provide a map of the site and immediate vicinity.*
- ◆ **Demographics of the community in which the site is located:** *Population, socioeconomic level, ethnic composition, specific language considerations (for possible translation of information), and the local government organization (city council, county board).*

Local Awareness and Interest

- ◆ **Does the community have any awareness of the project as a hazardous substance release or permitting facility? Have there been meetings, presentations, or other outreach efforts taken to inform the community about the site?** *Document any prior or current efforts undertaken to inform the community of the site.*
- ◆ **Contacts by community members:** *Have there been contacts or inquiries from individuals or groups regarding the site? (Include their names, phone number, and address on the Key Contact List.)*
- ◆ **Media coverage:** *Has there been any newspaper, magazine, or television coverage related to the site? (Include copies of articles, if available.)*
- ◆ **Government involvement:** *Has there been or is there currently any other government involvement with the site? City or county staff, elected officials, other regulatory agencies?*

Key Contact List

- ◆ Provide names, addresses, and phone numbers of key local officials including city manager, city/county planning department and environmental health department contacts, other involved agency contacts, and community members with whom there has been contact on the site including any environmental or other groups which may have potential interest in the site.
- ◆ **Provide a list of adjacent property owners and leasers/renters:** *These names provide the initial step in formation of the Department site mailing list.*

Key Issues and Concerns

- **Are there any specific concerns or issues raised by the community regarding the site or operational activities conducted at the site?** *Health concerns, property value concerns, land use concerns, other.*
- **Any anticipated concerns/issues regarding the site?** *If the community is unaware of the site, what are the anticipated concerns/issues.*
- **Level of concern:** *Is there or is there anticipated to be low or high level of concerns? Is significant controversy expected?*
- **Any general environmental concerns or other projects with high controversy in the community?** *Have environmental or other citizens groups shown interest in other sites or issues in the past? Which groups? What sites/issues? (See Exhibit 6-1)*
- How does the community wish to communicate? (or have the ability to) electronically? written? meetings?

Recommended Public Participation Activities

- **Recommend public participation activities beyond those required by regulation or law:** *Is some additional community assessment merited in your opinion? Is a Public Participation Plan in order? Do you anticipate the need for meetings?*

Department Public Participation Specialist Approval (signature and date)

Your name here

DTSC Public Participation Specialist

(date)

Baseline Community Survey

Overview

A baseline community survey (also referred to as a community survey) is a process conducted by a Public Participation Specialist, utilizing questionnaires, display ads and telephone interviews, from Section 25358.7 (b). It is also an opportunity to introduce a project to a community and get some early feedback, including information on sensitive receptors. A baseline community survey cannot take the place of community interviews, which are necessary prior to the development of a Public Participation Plan.

Responsibilities

Baseline Community Survey Task Responsibilities

Timing

A baseline community survey can be performed at the earliest stages of a project. A baseline community survey also can be a useful tool to monitor community interest during the life of a project or evaluate the impact of a change in circumstances.

Community surveys are ideal for evaluating new projects to obtain a general idea of the level of community interest. For known “high” community interest facilities, community interviews should be conducted.

Techniques

- ◆ Develop project **mailing list** (refer to Chapter 6 D for guidance on mailing lists);
- ◆ Send out an **introductory letter** describing the proposed project, DTSC’s role,

and public involvement opportunities. Include with the letter, a questionnaire asking about knowledge of, interest in, or concern about project, as well as how to best work with this community. (Refer to the Appendix, for a sample letter.); and,

- ◆ Review responses received to obtain feedback on community interest and/or concern. Consider number of responses received (10% is usually a good response to such a mailing), as well as the specific comments provided.
-

A written survey can be enhanced by the following methods:

Conduct a limited number of telephone interviews with key community leaders (usually 5-7 interviews will suffice) for additional information about community and issues. (Refer to Exhibit 6-6, for examples of telephone interview questions.)

Place a display ad in local newspapers, describing the proposed project, DTSC's role, and public involvement opportunities. Include a DTSC contact and a tear-out coupon which can be returned for additional information and to be added to the project mailing list.

In addition to these primary techniques, it may be useful to conduct a drive-by site/facility inspection to gather more information (particularly sensitive receptors) about the community.

Prepare a summary of information received from questionnaires, phone interviews, and/or display ads. From this, develop a public involvement strategy, which is responsive to needs identified by the community. This should include whether additional community assessment efforts are warranted as well as any other public participation activities that are anticipated for the project.

Community Interviews

Overview

Community interviews are individual, in-person interviews, conducted by the Public Participation Specialist and the Project Manager with community members, local officials, and other interested parties to:

- ◆ Identify the interested community;
- ◆ Obtain historical information about the site/facility;
- ◆ Assess community issues and concerns;
- ◆ Evaluate level of awareness about a project;
- ◆ Obtain an understanding of past community involvement in this or other similar projects;

- ◆ Receive input on how to best involve the community in the site mitigation or permit process; and,
- ◆ Begin to establish a relationship with local agency and community representatives.
- ◆ To meet the requirements of Health and Safety Code Section 25358.7, interviews cannot take the place of a community survey, or vice versa.
- ◆ Ability to send/receive electronic correspondence or access to the internet.

Responsibilities

Community Interviews Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ◆ Identify need for interviews. ◆ Identify interview scope. ◆ Prepare/approve questions. ◆ Conduct interviews. ◆ Review assessment summary (write for state-lead sites or permit). ◆ Approve the list of interviewees. 	<ul style="list-style-type: none"> ◆ Schedule interviews. 	<ul style="list-style-type: none"> ◆ Suggest interview participants. ◆ Review and make recommendations on questions. ◆ Participate in interviews. ◆ Comment on summary.

Timing

Site Mitigation

Community interviews are the first step in the development of a Public Participation Plan. An approved Public Participation Plan must be in place before Remedial Investigation fieldwork can begin at a site. Interviews can also be done at any time during the site mitigation process, as needed, in order to evaluate changing community make-up, interests, needs or concerns.

HWM

Community interviews should be done for any “high” community interest facilities, when review of the Part B permit application begins or when corrective action is initiated. Refer to Exhibit 6-1, “High Community Interest Criteria”, for guidance on determining whether a facility is considered “high” interest. This determination may change for a facility at any time. The Public Participation Specialist is responsible for determining whether community interviews are necessary for a facility.

Preparing for Interviews

Community interviews are a time-intensive activity because of the large amount of organization required and time needed for interviews. While the level of effort will vary, schedule approximately four hours per interview for research and preparation, the interview itself, and follow-up activities.

Collect background information about the project and community. This information can be collected from other DTSC staff, newspaper reports, DTSC files, a drive-by of the site/facility, other agencies, and the permit application/closure plan.

Identify contact persons at interested organizations and local agencies. In addition to establishing the community's level of interest, project staff must identify the organizations, agencies and individuals that have been interested or involved in the site or facility related activities to date. This information can be obtained by reviewing the following materials:

- ◆ Newspaper clipping;
 - ◆ DTSC's public participation file for the site/facility; and,
 - ◆ DTSC telephone logs that record site- or facility-related public inquiries.
-

The Public Participation Specialist conducts the interviews with participation from the Project Manager and responsible party or site mitigation project proponent, if applicable or deemed appropriate by the Public Participation Specialist.

Develop a list of interested parties to interview. The project team must develop a list of community members to be interviewed, including representatives of those persons and organizations identified in the two steps above. Additional efforts should be made to identify those community members who are less vocal or visible, as they will provide additional perspectives and concerns about the site/facility that may not surface during interviews with more actively involved community members. DTSC policy requires the Public Participation Specialist to conduct and/or participate in the interviews. Project staff should accompany the Public Participation Specialist. Refer to Exhibit 6-5 "List of Individuals and Organizations to Interview".

Develop a list of interview questions. The interview is an opportunity for community members to express their concerns about the site/facility directly to DTSC, and to have input to the public participation planning process. The questions posed during the interview should, therefore, be open-ended in order to elicit the widest range of community members' concerns and experiences regarding the site/facility. Questions should be phrased so as not to be leading or biased.

Exhibit 6-6, contains a list of standard interview questions that may be used to guide the interview. This list is not all-inclusive and project staff should develop additional questions that will elicit site/facility-specific or community-specific concerns. For example, if the community has been suspicious or distrustful of local or state government actions or decisions in the past, questions should be asked that will supply DTSC with information on those events and the community's current attitudes toward local authorities. Site/facility files will provide information with which additional interview questions can be developed.

Arrange the Interviews

and business representatives are likely to prefer meeting in their offices during business hours, local residents and community groups may be available only during non-business hours. Meetings at their homes may be most convenient.

- ◆ The interviews may take place within a single community or over a large geographical area. It is important to plan ahead when scheduling the interviews and group them by geographic location to prevent backtracking throughout the day. Depending on the number of interviewees and their geographic locations, one or more days may be required to complete the interviews.
- ◆ Staff should allow for up to one hour per interview, plus time to travel to the next appointment. Appointments should be scheduled two to three weeks prior to the interview to allow time to send a letter confirming the date and time, reason for the interview, and topics to be discussed.
- ◆ Interpreter should be used when interviewing community members who speak a language other than English.

Conducting the Interviews

Explain Purpose

The Public Participation Specialist will begin the interview with a brief overview of the project, and explain that the primary goal of the interview is to obtain rather than disseminate information. The information gathered during the interview is used to assess community concerns, and to develop an appropriate public participation strategy. While DTSC staff may answer questions or provide a brief summary about DTSC activities and findings, the interview is not intended to serve as a formal briefing.

Assure Confidentiality

Explain that while the public involvement plan will be part of the project file, the plan will not attribute specific statements or information to any individual. Ask interviewees if they would like their names, addresses, and telephone numbers on the mailing list.

Identify Other Interested Parties

Ask the interviewees for names and telephone numbers of other persons who are interested in activities at the site/facility.

Determine Previous Outreach

When identifying citizens' concerns about the site or facility concerns, consider the following factors:

- ◆ Threat to health or the environment

Identify
Concerns
About Site/
Facility

- ◆ Economic concerns
- ◆ Sensitive Receptors
- ◆ Agency credibility
- ◆ Community involvement
- ◆ Media coverage (local, state, national)

Number of households/business affected

Future Public
Involvement in
Project

Explain the public involvement process, and ask the interviewees:

- ◆ How they would like to be involved and informed of the project progress (keep a list of individuals who wish to be kept informed);
- ◆ What is the best way to stay in contact;
- ◆ To recommend convenient locations for holding public meetings and setting up information repositories.
- ◆ Do they have the ability to send/receive electronic comments or access the internet?

Summary of community concerns should be written up at the completion of community interviews. This can be incorporated into the Public Participation Plan or, when no Public Participation Plan is required, can become the basis for a memo to file, outlining a public participation strategy for the project.

Community
Interviews
Summary

Exhibit 6-5

List of Individuals & Organizations to Interview

(** denotes must contact for interview)

** Residents located close to the site/facility

** Businesses located close to the site/facility

Local chapter of the League of Women Voters

Parent-Teachers Associations and school principals

Chamber of Commerce

Civic groups

** Appropriate City Council Member(s)

** City Planning Department

** County Supervisor(s)

Statewide environmental groups

University or community college leaders

** Representatives of State and local agencies such as the Regional Water Quality Control Board (RWQCB) and the Air District

** Representatives of the local Public or Environmental Health Department

** State legislators

** Federal legislators (federal legislators are only required at federal sites or RCRA facilities or NPL sites and should be considered at “high “ profile state sites/facilities).

Local/Regional community or environmental groups

** Sensitive receptors (e.g., Hospitals, Schools, Parks, Day Care Centers)

Exhibit 6-6 ♦ Standard Community Interview Questions

- History:
1. How long have you lived or worked in this area?
 2. Are you familiar with the site/facility?
 - a. Where have you received your information about the site/facility?
 - b. How and when did you first become aware of the site/facility?
- Concerns:
3. Do you have any concerns about this site/facility?
 - a. If so, which of these are most important?
- Involvement:
4. What do you know about the history of community involvement around this site/facility?
 - a. Have you been actively involved with the site/facility in any way?
 - b. Are you aware of any individuals or groups who have emerged as leaders on this issue?
 - c. Do you feel they adequately represent your concerns?
 5. Have you had any contact with local, state or other officials regarding this site/facility?
 - a. If so, what was the nature of this contract?
- Media:
6. Do you feel that the media coverage has presented an accurate picture of the situation:
 7. Have you had any personal experiences with the media?
 - a. Do you feel your concerns have been accurately reflected in media coverage?
 8. Do you listen to news on the radio?
 9. On what TV and/or radio stations do you get the news?
 10. What newspapers do you take?
- Level of Confidence:
11. Do you have confidence in the State's ability to: clean up this site or appropriately process the permit application/closure plan approval for this facility?
- Communication:
12. Do you feel you have been kept adequately informed about the site/facility?
 - a. What, if any, communication problems have you experienced in the past?
 - b. If not, what other kinds of information would you like to be receiving?
 13. What is the best way to provide you with information about the site/facility?

<input type="checkbox"/> Fact Sheets	<input type="checkbox"/> Community Meetings
<input type="checkbox"/> Workshops	<input type="checkbox"/> Advisory Committee
<input type="checkbox"/> Electronic messages (e-mail)	<input type="checkbox"/> Access to DTSC's web site
<input type="checkbox"/> Other (explain) _____	
 14. Can you suggest a convenient location(s) for:
 - a. Community Meetings
 - b. Local Information Repositories
 15. Can you suggest anyone else we may want to talk to?
 16. Any other comments, suggestions or concerns you would like to add?

♦ ♦ ***Site/facility files will provide the information with which additional interview questions can be developed.*** ♦ ♦

Department of Toxic Substances Control
Public Participation Manual

CHAPTER 6 SECTION B
The Public Participation Plan

Chapter 6, Section B

The Public Participation Plan

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Public Participation Tasks and Techniques

Section B ♦ The Public Participation Plan

Developing the Plan

The purpose of the Public Participation (PP) Plan is to formally document community concerns regarding a site or facility, and to identify specific public participation activities which will be implemented to ensure the community is involved in the agency decision-making process.

NOTE: Community interviews must always be completed prior to the development of a Public Participation Plan, and the results of the interviews become the basis of the Plan.

Project staff should allow ample time for developing the Public Participation Plan, as it may take up to 9-12 weeks from the inception of the planning process to the completion of the draft Public Participation Plan, plus final review and approval time required of the Public Participation Specialist (PPS). (Refer to Exhibit 6-7, “Public Participation Plan Activities Checklist”.)

The public will have access to the Public Participation Plan, which will be placed in at least one information repository in the community, and DTSC is expected to conduct those public participation activities prescribed in the Plan.

Responsibilities

Public Participation Plan Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
♦ Review & approve (write for state-lead sites or permits) the Public Participation Plan.		♦ Review & comment.

Timing

Site Mitigation

The development of a Public Participation Plan will begin as soon as DTSC determines it is necessary. The Public Participation Plan must be completed by the contractor or Responsible Party and approved by the Public Participation Specialist before the remedial investigation fieldwork begins.

HWM

Consider the development of a Public Participation Plan for any “high” interest permit application/closure plan, and at the beginning of the corrective action process (RCRA facility investigation). For guidance on determining the community level of interest, refer to Exhibit 6-1, “Community Interest Evaluation Worksheet”.

Elements of the Public Participation Plan

The Public Participation Plan documents DTSC’s commitment to the community interested in the hazardous waste facility or site. The Public Participation Plan sets forth the actions which DTSC and the permit applicant will take during the course of the permit determination or closure to keep the community informed in a timely fashion, and to provide opportunities for community participation in the decision-making process.

- ◆ Introduction - Clearly explains the purpose of the document.
- ◆ Site/Facility History Background - Provides an overview of the site/facility, its technical and regulatory history, and a history of past community concerns and involvement in activities at the site/facility.
- ◆ Community Concerns - Summarizes any concerns identified during the community interviews.
- ◆ Objectives of the Public Participation Plan - Provides a narrative of the major objectives of the Plan. Objectives typically relate to the specific concerns outlined in the “Community Concerns” section of the Plan.
- ◆ Public Involvement Activities - Describes the specific activities that will be conducted to meet the objectives outlined in the “objectives” section of the Plan (e.g., meetings, fact sheets, briefings for local officials, etc.)
- ◆ Appendices - Can be included to provide the project mailing list, media contacts, and public meeting and information repository locations. (Mailing list should not be included within the PPP that are either distributed to the public or placed in the repository.)

Project staff should ensure that the Plan contains these elements, as required by DTSC policy. The Public Participation Specialist will not approve a Public Participation Plan, which does not contain all of these elements.

Interpreting Information

One of the goals of the Public Participation Plan is to present broad-based conclusions about the community’s concerns and interests. The writer of the Plan should

review site history, background information and comments obtained through interviews. The writer should then group the information into the appropriate (See Exhibit 6-8) categories. From the information in these categories, the writer may draw broad-based conclusions about community interests, and develop activities that will respond to community concerns.

While it is important not to extrapolate from what was said during the interviews to draw conclusions, project staff should try to interpret the core of community concerns from the interview notes. The writer should realize that she/he is drawing conclusions based on the interviews, and use terminology that reflects this (e.g., state that “some”, “many”, “few” or “one” person interviewed expressed that concern or belief).

It is extremely important to note that no community members are ever directly quoted in order to preserve the anonymity of the source.

Writing the Plan

Write the Public Participation Plan in active voice. The Plan should be written from DTSC point of view to the public, describing in direct language the activities to be conducted by DTSC or the Responsible Party (with DTSC oversight), and stating the opportunities for public involvement. In addition, the Plan must avoid technical language but, if technical language is necessary, the technical terms should be highlighted and defined in a glossary.

Approving the Plan

When the Public Participation Plan is prepared by a Responsible Party, proponent or contractor, the Plan shall be submitted to DTSC for review by the Project Manager and the Public Participation Specialist. (Refer to Exhibit 6-9, “Public Participation Plan Reviewer’s Checklist”.)

The final Public Participation Plan must be approved by the Public Participation Specialist prior to implementation. A signature line must be included on the cover page of the Plan for the Public Participation Specialist’s signature. (Refer to Exhibit 6-10, “Signature Page for Final Participation Plan”).

The review cycle may take several months from the “draft” to “final” stage of the Public Participation Plan, depending on the complexity of the site/facility, the quality of the first draft and the number of other parties interested in the Plan and/or site/facility. Reviewers should be allowed two weeks to comment on the draft Plan, but the Project Manager may alert reviewers if a tight deadline is involved and request comments by a specified date.

Revising the Plan

Revision of all or parts of the Public Participation Plan for a project may be done in order to incorporate new information, reflect changes in community concern,

and adjust public participation activities to meet these changes. A revision ensures that the Public Participation Plan remains sensitive to community concerns through all phases of the project. It can also evaluate which public participation activities are effective.

The process for revising a Public Participation Plan is similar to the process for writing the plan initially:

- ◆ Review new information obtained through new developments of the project, new community interviews, or information from other events;
 - ◆ Evaluate how this new information changes the community concerns and recommended public participation activities; and,
 - ◆ Revise and update the Public Participation Plan accordingly.
-

Timing

The Public Participation Plan should be reviewed and/or revised:

- ◆ When a significant change in community concerns or activities at a site/facility occurs; and,
- ◆ At least every two years for long-term projects.

Exhibit 6-7

Public Participation Plan Development Checklist

Project: _____

Lead: ___ State ___ RP ___ DoD ___ U.S.EPA ___ Other _____

Planning Meeting Date: _____ **Place:** _____

Attendees: _____

PP Plan Development Activity
 (activities may vary for each project)

Responsible Person(s)

Due Date

- | | | |
|---|-------|-------|
| 1. Develop interview list. | _____ | _____ |
| 2. Review/approve list for completeness. | _____ | _____ |
| 3. Provide site background information. | _____ | _____ |
| 4. Make contact, set up interviews. | _____ | _____ |
| 5. Develop interview questions. | _____ | _____ |
| 6. Approve interview questions. | _____ | _____ |
| 7. Conduct interviews. | _____ | _____ |
| 8. Follow up on commitments made in interviews. | _____ | _____ |
| 9. Prepare PP Plan. | _____ | _____ |
| 10. Review and approve PP Plan. | _____ | _____ |
| 11. Develop list of information repositories. | _____ | _____ |
| 12. Make contact to confirm repository locations. | _____ | _____ |
| 13. Send initial material to repository. | _____ | _____ |
| 14. Compile names for mailing list. | _____ | _____ |

Exhibit 6-8

Public Participation Plan Outline

A. Introduction

- ◆ Purpose of the Public Participation Plan;
- ◆ Agencies with oversight responsibilities at the site/facility;
- ◆ Description of how information was obtained—note that a list of persons interviewed during the Plan preparation is included in Appendix A;
- ◆ Summary descriptions of community concerns and the public participation program; and,
- ◆ How the Plan is organized.

B. Site/Facility History/Background

- ◆ Site/facility description;
- ◆ Area and site maps;
- ◆ History of site/facility (basic historical, geographical, and technical detail necessary to understand the site was listed on the State remediation list), including site location and proximity to community and geographic landmarks (e.g., homes, schools, playgrounds, businesses, lakes, streams);
- ◆ Agency involvement;
- ◆ History of community involvement, how the community has reacted to the site/facility in the past;
- ◆ Community concerns and issues; and
- ◆ Demographics of community in which the site is located (e.g., socioeconomic level, ethnic composition, specific language considerations, etc.). This information may be found in local libraries, on the internet, or in various public and private offices.

C. Community Concerns:

Reviews concerns outlined in the original plan and describes changes that have taken place since the time and initial plan was written. This discussion is based on information obtained during community interviews and through public comments.

D. Objectives of the Public Participation Plan:

Objectives specific to public participation for this site/facility and any special circumstances the Plan will address;

E. Public Involvement Activities:

Characterize the strategy for the public participation program at the site. Topics to be covered include:

- ◆ Description of methods of communication or activities to be conducted;
- ◆ Timing of these activities in relation to technical milestones, including a planning matrix at the end of this section;
- ◆ Responsibility for implementation of these activities (DTSC, Contractor, RFP, etc.);

- ◆ Resources to be used in the public participation program (e.g., local organizations, meeting places); and,
- ◆ Areas of special sensitivity that must be considered when conducting public participation and remedial activities.

F. Schedule of Public Participation Activities

This will be a one-page schedule that relates timing of public participation activities to technical milestones for the site/facility. If more than one entity has responsibility for the implementation of the Public Participation Plan, list each public participation activity and who has the responsibility for its implementation (i.e., DTSC, RP, EPA, Regional Water Quality Control Board, and county health department).

G. Appendix A - Key-Contacts Mailing List

This list will include names, titles, addresses and telephone numbers of all officials and group representatives contacted during the community interviews (indicated by asterisks) and others who should receive regular information about site development. Because the public participation plan is a public document, the telephone numbers and addresses of non-officials and non-affiliated individuals contacted for interviews will not be included as part of the Plan that is made available to the public. The list of contacts identified in the appendix should include the following:

- ◆ DTSC's Mandatory Mailing List.
- ◆ Mail delivery personnel (the local post office).
- ◆ Owners of the affected property .
- ◆ Federal, State and local elected officials (including city, county or township).
- ◆ Local and regional environmental and citizens' groups.
- ◆ DTSC officials (include all programs involved in the remedial process, e.g., Technical Services, Public Participation, Site Mitigation Branch).
- ◆ Interested residents.
- ◆ Local, State and federal health and environmental agencies.
- ◆ City and county clerks; city, county, and regional fire, health, water, air, environmental health, planning and transportation officials.
- ◆ Media contacts (newspaper, radio, and television). (See Chapter 6 E for complete list).
- ◆ Adjacent property owner.

H. Appendix B - Meeting Location and Information Repositories

This appendix will identify suitable locations for holding public meetings and making public information easily accessible to community members. Repository hours and contact names for both repositories and meeting places should also be included.

I. Appendix C – Glossary of Terms

A glossary will be used if the site background is particularly complex or if many technical terms or jargon are used in the public participation plan. Terms defined in the glossary will be indicated in the text of the public participation plan by italics, bold-faced type or underlining.

Exhibit 6-9

Public Participation Plan Reviewer's Checklist

Date: _____ Draft Plan Final Plan Revised Plan

Project: _____

Reviewer(s): _____

Review Criteria

- Determine need for or revision of PP Plan.
- Review project background file.
- Determine the number of interviews to conduct and with whom.
- Conduct the interviews.
- Draft the PP Plan or revision of PP Plan.
- Introduction: Explains the purpose of the document.
- Site/Facility History/Background: Reviews activities that have taken place since the initial plan was prepared.
- Community Concerns: Reviews concerns outlined in the original plan and describes changes that have taken place since the time and initial plan was written. This discussion is based on information obtained during community interviews and through public comments.
- Objectives of the PP Plan: Explains the major objectives of the plan relating to specific concerns outlined in the previous section of the document.
- Public Involvement Activities: Describes the specific activities to be conducted to meet the objectives of the plan.
- Schedule of Public Participation Activities: Relates timing of public participation activities to technical milestones for the site/facility.
- Appendices: Updates information on key contacts, media, public meeting and information repository locations.
- Coordinate internal review of PP Plan.
- Prepare final plan based on comments received during internal review.
- Distribute plan to information repositories.

	Page	Yes	No
1. Is the organization of the plan clearly presented in a table of contents and introductory paragraph?	___	___	___
2. Is the purpose of the plan stated?	___	___	___
3. Does the plan state which agencies have responsibility or oversight for public participation activities?	___	___	___

5. Is there a list of people who were interviewed to obtain the information in the plan? ___ ___ ___
6. Are public participation activities listed in a matrix format, indicating which activity corresponds with each technical milestone? ___ ___ ___
7. Does the plan have a history or background section? ___ ___ ___
8. Does the community background section include a site/facility description and location map? ___ ___ ___
9. Does the plan describe the history of community interest and involvement in this project? ___ ___ ___
10. Does the plan identify potential issues and community concerns? ___ ___ ___
11. Are the objectives of the public participation program described in the plan? ___ ___ ___
12. Are these objectives based on the issues and community concerns identified in the plan? ___ ___ ___
13. Does the plan describe for each objective the public participation technique to be used and the purpose of each technique? ___ ___ ___
14. Is there a list of recommended locations near the site for information repositories? ___ ___ ___
15. If a site mitigation project, does the plan address all the requirements of the California Health & Safety Code, Sections 25356.1(d) and 25358.7?
 - a. Circulate the draft RAP/draft RAW for 30 days for public review and comment. ___ ___ ___
 - b. Develop a mailing list that, at a minimum, includes contiguous property owners and local and state agencies, and requires they be notified by direct mail of actions proposed in the draft RAP/draft RAW. ___ ___ ___
 - c. Publish a notice of draft RAP/draft RAW availability for public review in a newspaper of general circulation in the affected area. ___ ___ ___
 - d. Post notices in locations of proposed removal or remedial actions. ___ ___ ___
 - e. Hold one or more public meetings on the draft RAP/draft RAW. ___ ___ ___
 - f. Based on public comment, review draft RAP/draft RAW, if appropriate, and respond to comments. ___ ___ ___
16. Has a mailing list of key contact people been compiled for the site (in the Appendix)? ___ ___ ___
17. Are any follow-up actions required? ___ ___ ___
18. What is your overall assessment of this plan (identify problems, strong points, unresolved issues)? ___ ___ ___

Exhibit 6-10

Sample Signature Page for Final Public Participation Plan

Public Participation Plan - Community Relations Plan

Site Name:

Signed: _____

**Public Participation Specialist
California Environmental Protection Agency
Department of Toxic Substances Control**

Date: _____

Department of Toxic Substances Control
Public Participation Manual

CHAPTER 6 SECTION C
Fact Sheets

Chapter 6, Section C

Fact Sheets

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Public Participation Tasks and Techniques

Section C ♦ Fact Sheets

Overview

Fact sheets summarize the current status of a site cleanup, permit application/closure plan, or corrective action, and announce pending fieldwork, public meetings, or proposed decisions. **Additionally they encourage interested individuals to seek more complete and detailed information through specialized resources and forums, including community information repositories, open houses, public meetings, etc.** Fact sheets present technical and/or procedural information in a format that uses clear and understandable language. They vary in complexity and length, **but strive to be four pages or less. Fact sheets often employ graphs, illustrations and other visual aids to convey information.**

Fact sheets are useful for informing all interested parties about the basis for the agency’s proposed decision regarding a site/facility or corrective action activities. They ensure that information is distributed in a consistent fashion so that citizens may understand the issues associated with a project.

Fact sheets with the DTSC logo must be placed on DTSC’s web site.

Responsibilities

Fact Sheets Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ♦ Identify need / objective / scope. ♦ Edit/revise / finalize. ♦ Approve final. 	<ul style="list-style-type: none"> ♦ Graphic design & layout. ♦ Printing & mailing. 	<ul style="list-style-type: none"> ♦ Prepare first draft of text. ♦ Provide additional information, as requested.

Timing

Fact sheets should be developed at those points during a project when DTSC has significant findings or other information to convey to the community. Factors that influence the need for a fact sheet for **both site mitigation and permitting** include:

- ◆ The nature of the information that is being imparted;
 - ◆ The commencement of field activities that might create interest and/or concern in the community because of equipment or personal protective gear that will be used;
 - ◆ Whether the information has caused this particular community (or any other community) to express interest or concern in the past; and
 - ◆ Whether the affected audience would perceive a fact sheet as the appropriate medium by which the information should be imparted.
-

Site Mitigation

Fact sheets should be developed at points in the remedial process when DTSC has significant findings or other information to convey to the community. Fact sheets may be needed during:

- ◆ Site Discovery;
 - ◆ Preliminary Endangerment Assessment (PEA);
 - ◆ An emergency incident; and, during the Remedial Investigation/Feasibility Study, as technical milestones are reached;
 - ◆ Announcing public comment periods;
 - ◆ When there are Interim Remedial Measures (IRM) / or Removal Actions to inform the community of scheduled technical activities;
 - ◆ Prior to the start of Remedial Investigation (RI) field activities;
 - ◆ Upon completion of RI activities, or when significant sample results are available;
 - ◆ Upon completion of the draft RAP;
 - ◆ Upon selection of a cleanup alternative, particularly if the proposed alternative differs greatly from the alternative presented in the draft RAP; and,
 - ◆ Final remediation or certification of a site;
 - ◆ Prior to the start of cleanup activities.
-

HWM

Fact sheets should be developed at points in the project when DTSC has significant information to present to the community:

- ◆ To announce a public comment period;
- ◆ During review of the permit application or closure plan;
- ◆ Once a draft permit or closure plan is released for comment;

- ◆ Prior to any public meetings or hearings that are part of the permitting, closure or CEQA processes;
 - ◆ Once a final permit or closure plan is issued, incorporating public comments;
 - ◆ During facility construction, modification or closure; and,
 - ◆ During the corrective action process as specified in the Public Participation Plan, or at a minimum, at the completion of the RCRA Facility Investigation and when proposing remedy selection.
-

Topics

There are several general categories of information that are included in fact sheets. While a fact sheet may be used to address a specific topic during a particular phase of an investigation or a project, the following basic information should also be included in the fact sheet. Refer to Exhibit 6-11, “Elements to consider for a Standard Fact Sheet”.

Site Mitigation

Site Mitigation fact sheets should include, as appropriate:

- ◆ Site background/project history;
 - ◆ Structure/duties of regulatory agencies;
 - ◆ Relevant hazardous waste laws/regulations;
 - ◆ Site location and surrounding environs (including sensitive receptors, generally within one mile radius);
 - ◆ Site cleanup process;
 - ◆ Sampling results;
 - ◆ Ongoing/proposed technical activities at the site;
 - ◆ Community involvement opportunities, announcements of public meetings, information repositories, and DTSC or other agency contact persons; and,
 - ◆ Glossary defining acronyms or technical terms; graphs indicating project calendar and milestones.
 - ◆ Telecommunications Device for the Deaf (TDD) announcement;
 - ◆ Americans with Disabilities Act (ADA) information;
 - ◆ E-mail address;
 - ◆ A reference to information on DTSC’s web site.
-

HWM

Hazardous Waste Management Permitting fact sheets should include, as appropriate:

- ◆ Proposed facility location and environs (including sensitive receptors, generally within one mile radius);
- ◆ Permit application summary and process;

- ◆ Proposed closure plan summary and process;
- ◆ Structure/duties of regulatory agencies;
- ◆ Relevant hazardous waste laws/regulations;
- ◆ Facility health and safety measures;
- ◆ Hazardous material spill response measures;
- ◆ Proposed measures to control potential contamination of environs;
- ◆ Opportunities for community involvement, announcements of public meetings, information repositories, and DTSC or other agency contact persons; and,
- ◆ Glossary defining acronyms and technical terms; and graphs indicating project calendar and milestones (including sensitive receptors, generally within one mile radius).

Exhibit 6 - 11

Elements to Consider for a Standard Fact Sheet

TOPICS	DEFINITION OF TOPICS
Introduction	State purpose of the fact sheet, summarizing contents.
Site/Facility History	Identify location (may use maps), site history, enforcement history, RP/proponent, etc. Specify that complete information is available in the repository.
Agencies' Responsibilities	Identify lead agency and all involved agencies' roles and responsibilities.
Laws & Regulations	General overview of primary hazardous waste laws/regulations applicable to the project, e.g., CEQA.
Process	Discussion of agency steps involved in IRP/remediation/permit determination/closure plan.
Sampling Results	Applies to relevant data pertaining to site activities/facility permitting/closure process.
Upcoming/Ongoing Activities	On-site activities expected in near future which would provide data for remedial/permit/closure plan/corrective action activities.
Schedule	A discussion of when milestones are expected to be revealed.
Community Involvement	Identify public meetings, hearings, workshops, community interviews, agency
Opportunities	availability, public comment period, and where to send comments.
Glossary	All terms used in the fact sheet, which would be unfamiliar to the reading audience.
Coupon	Allows reader to be placed on mailing list or to change address. Include disclosure statement of Public Records Act requirement.
Contact Person(s)	List DTSC primary contact person(s) (address & phone #). Should be Program Manager and Public Participation Specialist, and other agreed upon contacts.
Repository Location(s)	List the address, phone # and hours of operation for repositories. May include the name of a contact person at the repository.
Survey	Allows reader to provide comments on agency performance, remedial activities, etc.
TDD	Fact sheets must include DTSC's TDD telephone number.
ADA	Compliance with Americans with Disabilities Act for meeting facilities.
Website and e-mail contacts	

Writing the Fact Sheet

Initial considerations when developing a fact sheet are:

Purpose	<ul style="list-style-type: none">◆ Determine the reason for preparing the fact sheet at a given time and the primary message to be communicated.◆ The introductory paragraphs of the fact sheet should provide a short explanation of who is releasing the fact sheet, why it is being released at this time, and what will be found in the remainder of the fact sheet.
Audience	<ul style="list-style-type: none">◆ Translation of fact sheet for a non-English-speaking community.◆ General education level of the community.◆ Community's history of involvement at the site or facility (if pre-existing).◆ Media coverage of a project.◆ Familiarity with hazardous waste issues.◆ Community attitude(s) towards DTSC, other agencies, or the responsible parties.◆ Diversity of interested individuals and groups, both local and statewide.◆ Information that the community specifically requested during the development of the Public Participation Plan.
Fact Sheet Requirements	<ul style="list-style-type: none">◆ All fact sheets should convey our mission: Protection of Public Health and the Environment.◆ Cal/EPA requires all of its departments and boards to use recycled paper.◆ Use the current DTSC template for fact sheets (one can be obtained from a Public Participation Specialist);◆ Do not forget to use the proper project contacts and return address on fact sheets so readers will know how to reach us if they have any questions. Project contacts are usually the Project Manager, and the Public Participation Specialist. Use phone numbers, and specific street addresses.◆ Use the DTSC glossary, which is on the DTSC web site and is attached to this manual, to aid readers in understanding complex words, phrases or government procedures. Staff can either include definitions in the text of the fact sheet, or in a stand-alone fact sheet glossary.◆ Include the State, DTSC and Cal/EPA logos (They do not need to be placed in the same place on the fact sheet.)◆ Include page numbers on every page.◆ All fact sheets should include the month issued and where applicable, fact sheet numbers.

- ◆ List the following information to comply with the Americans with Disabilities Act:
 - ◆ Public Meeting Announcements: MEETING ACCESSIBILITY: For information on accessibility and to request reasonable accommodation, please call (Public Participation Specialist and phone number) at least one week in advance of the meeting.
 - ◆ Information Contacts section: NOTICE TO THE HEARING IMPAIRED: You can obtain additional information by using the California State Relay Service at 1-888-877-5378 (TDD). Ask them to contact the (Public Participation Specialist or Project Manager name and phone number) regarding the (project or site name).
- ◆ Include repository information.
- ◆ Include e-mail addresses.
- ◆ Include DTSC's web site.

Writing Tips

Start organizing the fact sheet information in an outline format. (See Exhibit 6-14, "Fact Sheet Outline".) Key points to remember in outlining the fact sheet include:

- ◆ A journalistic writing style is effective in fact sheets:
 - ◆ Present the facts in a concise manner;
 - ◆ Avoid complex sentences that tie together many ideas;
 - ◆ Consider the "five Ws" of journalism: who, what, when, where, why and how;
 - ◆ Use an active voice:

Example: "DTSC will conduct the RI." (active voice)

not

"The Remedial Investigation will be conducted by DTSC." (passive voice)

The active voice conveys to the public that DTSC is taking action to solve contamination problems in their community.
- ◆ Use language appropriate to the community's level of understanding of the issues being discussed and the type of information requested by the community.
- ◆ Avoid acronyms, jargon, and technical terms whenever possible. If the use of these words cannot be avoided, include their definitions in a Glossary. Spell out an acronym when first used (i.e., Remedial Action Plan [RAP]) and then define it in the Glossary. Look at each "technical" word and ask whether the average community member will know what it means (e.g., use "water table" instead of "aquifer").
- ◆ Translate where appropriate.

Design Elements

A visually appealing fact sheet is just as important as a well-written fact sheet. The first look at a fact sheet may determine whether a recipient reads it or not. Issues to consider when designing the fact sheet include:

- Visual Presentations
- ◆ Headlines, page layout and graphics should be designed to catch the reader's eye.
 - ◆ When using photos, use only action shots (a person collecting a soil sample or operating some earth-moving equipment, etc.)
 - ◆ On occasion, you may want to vary typeface (fonts), to break up the monotony of text-heavy fact sheets. However, try to use fonts from the same family, if possible; serif (fonts with tails, or fancier script); or a serif (without tails, or more plain or blocked script). Check with your Public Participation Specialist when selecting fonts.
 - ◆ There should be enough "white space" on the page so that it appears to the reader to be both interesting and readable.
 - ◆ A two or three column format is preferred for inside pages.
-

- Organization of Information
- ◆ Place the most important information in the beginning of the fact sheet. Use descriptive headlines to convey the key points of each section (e.g., "DTSC Finds Contamination in Soil", "Four Alternatives for Cleaning up the Site").
 - ◆ Highlight important announcements by boxing text and placing in a prominent location on the first page.
 - ◆ Draw the reader into the fact sheet by printing on the mailing label section (last page) a brief summary of the fact sheet topic (e.g., "Inside: DTSC Investigates Contamination at the [site name] Hazardous Waste Site").
-

- Mailing List or Coupons
- ◆ "Tear-off" coupons provide the reader with an opportunity to be included on the site mailing list, or indicate their interest in some activity that DTSC is sponsoring;
 - ◆ Coupons are usually placed on the reverse side of the recipient's mailing label so that when cut, none of the fact sheet information is destroyed; and
 - ◆ Be sure site name appears on the coupon.
-

Design Considerations

- ◆ Graphics should be used when they easily depict written information in the fact sheet (e.g., sampling results, or air monitoring data), or can depict locations using area maps (e.g., maps, charts, matrices, well designs, plant configurations, site layout, contaminant plumes, removal areas).

- ◆ Use spot color when possible. While much more cost-effective than four-color fact sheets, use of color can also enliven a fact sheet and provide variety. Also, various tints of the same color can be used, creating a more visually attractive format.
- ◆ Utilize the graphics library, now on the U: drive of DTSC's wide area network (WAN). This library will contain previously used graphics (e.g., boxes, maps, charts and illustrations, etc.) on a wide range of subject matter.

Material

- ◆ Paper should be 60 or 70 pound weight (regular typing paper is 20 pound weight) to look professional and prevents text from "bleeding through" to the back side of the page;
- ◆ Use light-colored paper (i.e., white, cream, grey); and
- ◆ Use dark ink (soy-based, if possible) (i.e., black, navy blue, brown).

Size and Selection of Type (fonts)

- ◆ Typefaces (or "fonts") are the styles of letters used to **print words** and should be selected to enhance document draw and attractiveness. Typeface may vary from Gothic, to computer-simulated, to standard typewriter style;
- ◆ Choose a typeface that is easy to read and does not strain the reader's eye;
- ◆ The height of typeface letters is measured in "points", and it is suggested that fact sheets use a ten or twelve point type (most newspapers use a six or eight point type); and,
- ◆ Headline typeface should be two to four points larger than the text.

Production and Distribution Schedule

Significant last-minute fact sheet revisions will increase costs and delay the schedule. In general, allow four to six weeks to produce and distribute a fact sheet. (See Exhibit 6-12, "Fact Sheet Production Timeline".) To keep on schedule, remember:

- ◆ Have all appropriate parties review the fact sheet before it is **printed**.
- ◆ Expedite the review process by notifying appropriate individuals that the fact sheet will need to be reviewed by a certain time.
- ◆ If the fact sheet is being printed, it may require a minimum of seven working days, even on a rush schedule.
- ◆ Fact sheets should be mailed at least three to five working days prior to the target receipt date.
- ◆ Make sure you allow time for posting on DTSC web site (See your Public Participation Specialist for details.)
- ◆ Use the "Fact Sheet Production Checklist", Exhibit 6-13.

Exhibit 6-12

Fact Sheet Production Timeline

Activity	Production Time (in work days)						Mail Date
	30	25	20	15	10	5	
Determine contents of fact sheet	X						0
Prepare first draft of text	X						0
Collect/develop photos, maps, other graphics		X					0
Notify layout & design artist and printer of upcoming work			X				0
Circulate text and graphics for review				X			0
Revise text to reflect comments				X			0
Make necessary changes to graphics				X			0
Circulate text and graphics for final concurrence					X		0
Layout text and graphics in DTSC-approved Fact Sheet template					X		0
Make any final changes to text and/or graphics						X	0
Obtain final approval of the Fact Sheet						X	0
Give final copy to printer							X 0
Apply mailing labels to printed Fact Sheets							X 0
Mail fact sheets via First Class Mail**							X 0

* Keep in mind that more time may be necessary depending upon the number of individuals involved in the development and review process.

** Allow three days for fact sheets to reach people via First Class mail.

Exhibit 6-13

Fact Sheet Production Checklist

Project: _____

Fact Sheet Name/Number: _____

Targeted Mailing Date: _____

<u>Activity</u>	<u>Responsible Person(s)</u>	<u>Due Date</u>
___ Determine purpose and focus of fact sheet.	_____	_____
___ Develop outline.	_____	_____
___ Organize contents in a logical manner.	_____	_____
___ Determine appropriate graphics.	_____	_____
___ Update mailing list.	_____	_____
___ Draft text.	_____	_____
___ Identify typesetter and printer.	_____	_____
___ Work with Public Participation Specialist, contractor or graphic artist to develop graphics.	_____	_____
___ Review and approve draft text and graphics.	_____	_____
___ Work with typesetter to design fact sheet.	_____	_____
___ Develop rough layout of headlines, page layouts, and positions of graphics.	_____	_____
___ Determine column format.	_____	_____
___ Determine information to be highlighted through shading, lines, boxes or other methods.	_____	_____
___ Choose font(s) and point sizes of type.	_____	_____
___ Place mailing coupon on reverse side of mailing label.	_____	_____
___ Select weight and color of paper, and color of ink.	_____	_____
___ Revise text to reflect comments.	_____	_____
___ Work with graphic artist to revise graphics.	_____	_____
___ Circulate text and graphics for final concurrence.	_____	_____
___ Approve final text, graphics, and layout.	_____	_____
___ Give text and graphics to typesetter.	_____	_____
___ Proofread typeset, laid out copy.	_____	_____
___ Work with typesetter to make corrections.	_____	_____
___ Label fact sheets.	_____	_____
___ Mail fact sheets.	_____	_____

Exhibit 6-14

Fact Sheet Outline

I. Introduction

- A. Outline of fact sheet
- B. General description of actions (draft permit & negative declaration.)
- C. Brief description of actions, include modifications.
- D. Corrective action
- E. List sections of fact sheet

II. Background

- A. Facility or site location (include proximity to people, sensitive receptors, etc.)
- B. Facility or site history
- C. Contamination

III. Facility or Site Description

- A. Current activities proposed
 - 1. Types of units and capacities, if applicable
 - 2. Description of wastes (chemical & familiar)
- B. Proposed actions

IV. Enforcement History, if applicable

- A. Introduction, to include statewide enforcement
- B. Description of incidents, leading to contamination or what happened
- C. Summary of other enforcement actions

V. Explanation of Permit Conditions, if applicable

- A. Statement of completion, with dates (Part B, Notice of Declarations, etc.)
- B. Legal basis for permit
- C. Categories of draft permit (list)
 - 1. Standard conditions
 - 2. General facility conditions
 - 3. Other conditions

VI. Public Participation

- A. Public comment period length and date, if applicable
- B. Procedures for requesting a hearing meeting and/or reasonable accommodations (American Disabilities Act)
- C. Location and hours of repositories
- D. Where to send comments, if applicable (include e-mail address)
- E. Notice of final decision, if applicable
- F. Other opportunity for public involvement

VII. Statement of Basis

DTSC's shall prepare a "statement of basis" for every draft permit for which the Public Participation Specialist has determined that a fact sheet is not necessary due to the very low community interest at a facility. The statement of basis shall briefly describe the conditions of the draft permit and the reasons for them, or in the case of notices of intent to deny or terminate, reasons for supporting the tentative decision. The "statement of basis" shall be sent to the applicant and, on request, to any other person.

VIII. Information Letters

Information letters are used to update the residents and other interested individuals on the project mailing list. These letters are not as formal as a fact sheet and usually have a short production turn-around timeline.

Writing Tips:

- ◆ Use letter format;
- ◆ Have focused topics; and
- ◆ Include contact person's name, e-mail address, and phone number.

Refer to the Appendix for a sample of an information letter.

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION D
Mailing Lists

Chapter 6, Section D

Mailing Lists

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Public Participation Tasks and Techniques

Section D ♦ Mailing Lists

Overview

Mailing lists are project specific and include individuals and organizations who have expressed an interest in the permit determination or site, and/or wish to be kept informed of DTSC’s activities. Mailing lists are considered public record and may only be obtained through a written Public Records Act request. Project Managers should consider all mailing lists as public records, and coupons and sign-in sheets must contain a disclosure statement, which conveys this to anyone requesting to be placed on a mailing list.

You should consider the possibility of collecting e-mail address for electronic mailings.

Responsibilities

Mailing List Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ♦ Identify scope. ♦ Identify known contact or contractor. ♦ Review & approve mail list. 	<ul style="list-style-type: none"> ♦ Gather data for mailing list. ♦ Enter into database. ♦ Update as needed. ♦ Collect email addresses for electronic distribution of information. 	<ul style="list-style-type: none"> ♦ Identify known interested parties, agencies, etc. ♦ Acquire contiguous property owners and occupants list from RP or permit applicant.

Purpose

The mailing list assists in providing information to community members, contiguous property owners, State and local agencies, and elected officials throughout the permit determination, closure plan or remedial process.

Timing

Development of the mailing list should begin as soon as the permit application or closure plan is received, or the response action begins. Mailings can take place throughout the permitting/closure or the remedial process; therefore, the mailing list should always be up-to-date and available.

Scope

The geographic scope of the mailing list is left to the discretion of the Public Participation Specialist, except when required by statute or regulation (e.g., 1/4 mile radius for incinerator application), based upon density of population, community interest, location of potentially affected population, locations of schools, and sensitive receptors. A two to three block radius around the site maybe used as a guideline for high-density population, or a larger radius for more rural low-density areas. The mailing list must include:

- ◆ Mandatory mailing list;
 - ◆ Regional mailing list;
 - ◆ Schools;
 - ◆ Public facilities;
 - ◆ Persons indicating an interest (i.e., activist groups); and,
 - ◆ Media.
 - ◆ Contiguous property owners
-

Mailing List Tips

- ◆ The initial mailing list may consist of DTSC's telephone log, record of inquiries about the site or permit application, elected officials and local agencies, and the DTSC-required mailing list;
- ◆ A useful technique to augment the mailing list is to include in fact sheets and public notices a clip-out coupon (including a disclosure statement that the mailing list is a public record) addressed to DTSC, requesting to be placed on the mailing list. An example of a mailing list coupon is shown in Appendix D, "Sample Fact Sheet";
- ◆ A display ad in the local newspaper of a community may generate interest by local residents to be placed on the mailing list for a certain project;
- ◆ Project staff can request that the post office send fact sheets or other information to all addresses within a particular ZIP or postal route of a site or facility. Such materials should be addressed to "Postal Patron", and arrangements for delivery need to be made ahead of time with the post office;

- ◆ Mailing lists for targeted areas (residents or businesses in a particular area) may be also procured through mailing houses or may be obtained, at no cost, through other public agencies (i.e., water district, planning department, etc.);
 - ◆ Maintaining the mailing list can be the responsibility of project staff, contractors or the Responsible Party. It will be important to assign this responsibility, and ensure that the mailing list coupons received by DTSC project staff are directed to the appropriate person to be added to the mailing list; and,
 - ◆ Purging of the mailing list should be done periodically to ensure up-to-date lists.
 - ◆ Copies of the mailing lists need to be included in project files.
-

Key Contacts

State and Federal Elected Officials

- ◆ State Senate
- ◆ State Assembly
- ◆ U.S. Congress

Local Elected Officials

- ◆ County Supervisor (include all if there are more than one district)
- ◆ Mayor

City and Agency Officials

- ◆ RWQCB (person working with the facility and perhaps their senior)
- ◆ City Manager
- ◆ Water District
- ◆ City Department for Environmental Health
- ◆ SCAQMD (person working with the facility and perhaps their senior)
- ◆ County Department for Environmental Health
- ◆ School District
- ◆ City Planning Department
- ◆ County Planning Department
- ◆ Fire Marshal

Mail delivery personnel

Local Contacts

- ◆ Environmental Groups
 - ◆ Homeowners Associations
 - ◆ Area Residents*
 - ◆ Area Businesses
 - ◆ Hospitals
 - ◆ Adjacent Businesses
 - ◆ Schools
 - ◆ Day cares for children and the elderly
 - ◆ Adjacent property owners
 - ◆ Owners of the affected property
-

Media

- ◆ Newspapers
- ◆ Radio Stations
- ◆ Community television channels

*Exact radius to be determined based upon community interest/visibility.

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION E
Public Notices and Notifications

Chapter 6, Section E

Public Notices and Notifications

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Public Participation Tasks and Techniques

Section E ♦ Public Notices and Notifications

Overview

The purpose of a notice is to inform the community of an upcoming DTSC action. The term “public notice” is also used to refer to other methods for notifying the public, such as display advertisements, legal notices, paid radio and television advertisements, and public service announcements on radio and television stations.

DTSC notices must also be placed on the DTSC web site.

Responsibilities

Public Notices Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ♦ Review & approve ads. ♦ Identify media to use. 	<ul style="list-style-type: none"> ♦ Prepare public notice/radio ad. ♦ Obtain bids for radio ads. ♦ Prepare service authorization. ♦ Place ads as directed. 	

Types of Notices

Written Public Notices

- ♦ Display Ads are required for:
 - All removal action or RAP public notices.
 - “High” community interest permit notices.

Broadcast Public Notices

- ♦ Legal Notices:
 - Meet the minimum legal requirement for permit notices; can be used for “low” community interest permit actions.

Note: In either case, the notices must be placed on DTSC’s web site.

- ◆ Paid Radio Advertisement is required for all permit public notices; and,
 - ◆ Public Service Announcement on Radio/Television:
 - ✱ Optional technique for advertising a meeting or action.
 - ✱ Does not meet the requirement for a permit radio advertisement.
-

Written (or Electronic) Public Notices

Display Advertisements

Display ads are a form of public notice that appear in the main sections of the newspaper (e.g., news, feature, sports), to inform the public of DTSC activities. [DTSC policy suggests using display advertisements for public notices rather than using legal notices](#) wherever possible.

Ads provide essential information so that readers may make further inquiries. Ads are preferred to legal notices because they are placed in more prominent sections of the newspaper, and are more likely to be seen by a larger segment of the targeted community. In general, an ad is short and does not provide a comprehensive description of the DTSC activity (e.g., permit, closure or RAP).

Display advertisements are also used to announce meetings, availability of reports, and important agency decisions. (Refer to sample display ads in the Appendix.)

Legal Notices

Legal Notices are a form of public notice, generally located in the classified advertisement section of the newspaper (rather than in the main news section), to inform the public of DTSC activities. [Display advertisements are the preferred form of public notice, although legal notices may be used upon consultation and approval of the Public Participation Specialist.](#)

The legal notice is not meant to be a comprehensive description of the activity or report being publicized. Rather, it should give community members the information they need to determine whether they would like to read additional materials or attend public meetings. (Refer to the Appendix for a sample of a legal notice used for a public notice.)

Timing

Display ads/legal notices fulfill the public notice requirements noted below:

Site Mitigation

The H&S Code requires that DTSC publish a public notice in a local newspaper of general circulation upon release of the draft RAP for a 30-day public comment.

HWM

Public notice is required for the following actions:

- ◆ Announcement of the availability of a draft permit, permit modification, temporary authorization request or closure plan for public review;

- ◆ Corrective Measures Study public comment;
 - ◆ Announcement of a public hearing; and,
 - ◆ Granting of an appeal.
-

CEQA

Public notices for hearings must be announced 30 days in advance of the hearing date. A public notice must be mailed, published in a local newspaper, placed on DTSC's web site, and broadcast over local radio stations, as required by State law.

Public notices may be placed for the following actions:

- ◆ Notice of exemption;
 - ◆ Preparation of initial study draft negative declaration
 - ◆ Draft EIR
 - ◆ Notice of determination
-

Placing an Ad/Legal Notice

Note: In many cases the responsible party, project proponent or facility owner maybe asked to place an ad or legal notice utilizing DTSC approved wording. If this is the case the Project Manager or Public Participation Specialist must provide guidance.

The Public Participation Plan for a remedial site or for the permit or closure plan determination project will list commonly read local newspapers. It is also useful to place ads in regional supplements of major metropolitan newspapers. In areas where non-English-speaking residents might be affected, ads/notices should be translated and placed in area newspapers. Newspaper ads/legal notices are placed through the DTSC contract for placing public notices. Refer to the Public Participation Specialist for specific information on how to use the newspaper ad contractor for placing notices. If DTSC is paying for the ad:

- ◆ The Project Manager must contact the contract manager with the text and names of newspapers in which the ad/legal notice should be placed;
- ◆ The Project Manager obtains a cost estimate from the contract manager;
- ◆ The Project Manager completes a “Newspaper Advertisement Request Form” (refer to the Appendix), with the estimated ad/legal notice cost, and submits it to the contract manager, along with any additional information (e.g. the actual language of the public notice) as an attachment. Once the approved request form has been electronically forwarded to the contractor, the PPS or the Project Manager works directly with the contractor to ensure the notice(s) are placed.

Technique Most newspapers require that all text for ads/legal notices be received at least five working days prior to publication. **Allow time for the Public Participation Specialist to review and approve the text of the ad/legal notice.** The ad/legal notice must be sent to the newspaper in “camera ready” form — typeset and reducible to print size — or be typeset at the newspaper. Allow more time for proofreading if the newspaper performs typesetting. Run the ad/legal notice at least once, consult with the Public Participation Specialist to determine whether to run the ad/legal notice more than once.

Writing the Ad or Legal Notice Ads/legal notices should convey all the relevant information in a clear and direct manner. Avoid the use of technical language and jargon. Remember the five W’s of journalism, and be sure to place the most important information in the beginning use the active voice. For example, if announcing the availability of the draft RAP for public review, the piece should begin: “DTSC announces the availability of the draft Remedial Action Plan...”.

Present all the necessary information, including where the documents may be reviewed, meeting locations, contact persons and e-mail addresses, phone numbers, and a brief summary of the decision being made or the issues to be discussed at the meeting.

Broadcast Public Notices

Paid Radio Ads Paid radio ads are another form of public notice that are required in specific instances (noted below) to inform the public of upcoming site or permit related activities. The advertisements are generally spots of 30 or 60 seconds, broadcast on local radio stations.

Public Service Announcements Public service announcements (PSAs) are short messages (usually, 10, 15 or 30 seconds) that are broadcast (free of charge) on radio/TV stations. PSAs may be brief announcements that provide more detail about an event and why it is happening (usually 30 or 60 seconds in length). PSAs can reach a targeted segment of a community, and are broadcast at the discretion of the radio/TV station, and are not a substitute for the paid radio advertisement.

Timing Paid radio ads are required forms of public notice for certain phases of permit determinations. Radio ads fulfill the public notice requirements for the following permitting actions:

- ◆ Announcement of availability of a draft permit for public review;
- ◆ Announcement of a public hearing; and,
- ◆ Granting of an appeal.

PSAs can supplement, but cannot be used as a replacement for paid radio ads required in the permitting/closure process.

For a paid radio ad, it is best to have the announcement prepared and reserve the air time two to three weeks ahead of time to obtain the best spots.

A PSA should be sent to the station two to three weeks before the date on which it should air. Call the station a few days before the target run date to check if the PSA will be on the air.

In addition to the paid radio advertisement, publication in a local newspaper of general circulation is also required for the three actions above.

Public Notices for Hearings

Public notices for hearings must be given 30 days in advance of the hearing date. A public notice must be mailed, published in a local newspaper, and broadcast over local radio stations, as required by State law. Public notices and display advertisements are also used to announce meetings, availability of reports, and important agency decisions.

All notices must be placed on DTSC's web site.

Choosing a Station

During community assessment interviews, ask which radio and TV stations the community listens to and watches. These stations should be identified in the public participation plan.

Placing a Paid Radio Ad or PSA

- ◆ Paid Radio Ad: DTSC contracting procedures require that three phone bids be obtained and a service authorization be used to place a paid radio ad. (Three bids are not required when the total advertising cost is less than \$100.) See Toxics Administrative Manual for details for Service Authorization.
 - ◆ Radio stations identified during the interviews, general audience stations (i.e. news or talk radio) should be used for bids.
 - ◆ Public Service Announcements (PSA): Determine the format in which the station prefers to receive PSA information. Because stations are more likely to use PSAs that do not require rewriting, DTSC staff should completely prepare the PSA. In certain situations in which it is critical that the PSA be aired on a particular station, it may help to work with the station directly to gain a commitment to run the PSA.
-

Statutory Requirements

Paid radio advertisements are required for any public hearing conducted by DTSC under the permitting process. This includes hearings conducted for all draft permits and permit modifications (NOTE: This includes any Class 2 permit modifications for which DTSC has decided there will be a public hearing); and to public notice the comment period for draft permits (except for emergency permits) and Class 3 permit modifications for which DTSC has not scheduled a public hearing. [Title 22 CCR § 66271.4(c)(1), § 66271.5, § 66271.11(a)(4), § 66271.9(c)(2)(B)]

There is no statutory requirement for a paid advertisement in the site mitigation process, although the Public Participation Specialist and the Project Manager may recommend these ads.

Writing the Ad/ Announcement

Paid radio ads and PSA are written in the form of a short press release (20 seconds) and should convey all the relevant information in very few sentences. Remember the **five W's of journalism**, and be sure to explain who, what, when, where, why, and how. They should be written in the active voice.

For example: “The California Department of Toxic Substances Control [who] is holding a meeting [what] to discuss the proposed cleanup solution for the Smelly Hazardous Waste Site in Smalltown, California [why]. The meeting will be held on Thursday, May 20, [when] at Smalltown City Hall [where]. For more information, please contact John Smith at (916) 555-1111 [how].”

In any piece of written communication, be sure to place the most important information in the beginning. For example, if announcing a community meeting, the piece should begin: “DTSC is holding a public meeting on...”. Ads should not be cluttered with technical language or jargon, and PSAs do not allow time for such language. Before submission to the station, read the announcement aloud to make certain that it will not exceed the desired time.

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION F
Public Meetings

Chapter 6, Section F

Public Meetings

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Public Participation Tasks and Techniques

Section F ♦ Public Meetings

Overview

There are several types of meetings which may be conducted during the site mitigation or hazardous waste management processes (refer to Exhibit 6-24, “Types of Public Participation Meetings”). Meetings are held to provide and exchange information during DTSC’s decision-making process. Meetings may include other agencies, local officials and government agencies, businesses, environmental groups, impacted communities, and the interested public to discuss DTSC site- or facility-related activities on a certain project. This subsection identifies the types of meetings which may be used during a project and those activities required to conduct each type of meeting.

Responsibilities

Public Meetings Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ♦ Identify need/objective/time frame. ♦ Identify location. ♦ Coordinate the development of the agenda. ♦ Coordinate development of presentations for all participants. ♦ Review/approve presentations. ♦ Conduct dry runs. ♦ Approve graphics/handout text. 	<ul style="list-style-type: none"> ♦ Make meeting room arrangements. ♦ Arrange for interpreter/court reporter, if needed. ♦ Prepare meeting supplies (sign-in sheets, name tags, comment forms). 	<ul style="list-style-type: none"> ♦ Coordinate with PPS on meeting plans. ♦ Prepare presentations. ♦ Participate in dry runs. ♦ Coordinate with PPS on graphics. ♦ Participate in meeting. ♦ Develop graphics/handout text.

Exhibit 6-24

Types of Public Participation Meetings

MEETING TYPE	DEFINITION
Briefings	Meetings designed to provide participants (usually officials or decision makers) with the information they need to answer questions they are likely to receive about the site from community members.
Workshops	Semi-structured gatherings or seminars to assist the public in gaining a better understanding of complex or technical project-specific issues.
Open Houses	Informal gatherings at which community members drop in and talk directly with individual DTSC staff or other specialists about specific project concerns and questions.
Community Meeting	Structured meetings which include formal presentations, Community meetings give all interested parties the opportunity to discuss project issues with each other and the regulatory personnel making the decisions.
EIR Scoping Meeting	Agency or public scoping meetings are held at the beginning of the EIR process to obtain input on specific environmental issues which should be addressed in the EIR.
Remedial Action Plan (RAP)/Removal Action Workplan (RAW) Meeting	Formal meeting, held during the required minimum 30-day public comment period, on the draft RAP/draft RAW designed to present information and to discuss and receive input on the proposed plan. (Note: A RAW meeting may not be required if public interest is low.)
OTHER MEETINGS: Small Group	Informal meeting with community groups to discuss project issues/concerns of particular interest to a group.
Technical Review Committee (TRC) Meeting	A meeting of a team of technical experts, including a minimum of one community person, who are managing the investigation of a hazardous waste project at a military base.
Restoration Advisory Board (RAB) Meeting	A meeting of a team of technical experts, in conjunction with community members, that are responsible for reviewing and monitoring the progress of remediation at military base.
Interagency	Meeting designed to bring together agencies involved or interested in a project or decision in order to disseminate information, coordinate actions, review proposals, etc. May also involve private groups or individuals. (NOTE: Once a private individual (not the project proponent) is invited to an interagency meeting, the meeting is open to all members of the public.)
Panel Discussions	Forums put on to present a variety of viewpoints on a specific issue. Usually involves a moderator and may evolve into a debate. Speaking time is limited, with a portion of the time given to questions from the audience or another panel.
Community Advisory Group	A formal assembly of community representatives, meeting regularly to discuss a site's or facility's progress. Membership may or may not include agencies, although agencies are usually invited to participate. Decisions by the group are passed on to the lead agency for consideration.

Briefings

Briefings are designed to provide participants—usually officials or decision-makers with the information they need to answer questions they are likely to receive about the site from community members, constituents, media, or other elected officials. Briefings can be held for one or more participants. Regular briefings can prevent local officials from being “surprised” by the media or community groups with information about the site. Providing officials with this type of information helps build good working relationships and credibility with local government.

The issue of who should conduct the briefings should be determined in consultation with key project staff.

Timing

Site Mitigation briefings generally are held at key points in the investigation and cleanup process, and as significant findings become available or decisions are made. Factors to use in determining specific sites for which DTSC might hold briefings on a regular basis are those which are highly controversial (i.e., extensive media coverage), or in which the community has expressed a high level of interest. Briefings also can be effective for officials in areas where there are many sites. This provides local officials with quick updates on a number of sites, and makes better use of their limited time.

HWM briefings are generally held at key points in the permit or closure plan determination process and as significant findings become available or decisions are made. Generally, the Project Manager or Senior may want to brief the local officials. The level of community concern often determines if a briefing is necessary. Consult with the Public Participation Specialist to determine the need for a briefing.

Notification

Generally, the Project Manager briefs local officials before remedial activity begins at any site; however, briefings may be held upon the request of the officials themselves.

Briefings during the permit process generally occur only on “high” interest facilities. They may occur at any time during the process or when requested by any official.

Format

Briefings should be clearly focused, and should not last for more than one or two hours. Once the initial briefing has been done, future briefings may consist of 5 to 30 minutes. The format should:

- ◆ Identify and define the varied interests of those invited to the briefing. For example, at a briefing on the Remedial Investigation report, local health officials probably will be interested in health data, while elected officials may be concerned about how the community will perceive the information and the political implications of proposed next steps.
- ◆ Provide a briefing agenda that covers the relevant points, allowing time in the agenda for participants to ask questions about issues of particular interest.

- ◆ Make good use of graphics and visual aids in the presentations.
 - ◆ Provide participants with handouts that explain important aspects of the briefing. These handouts should be designed so that officials can refer to them when the briefing is over and be fully versed in the briefing topic.
-

Preparation

Remember that the briefing is for the benefit of the participants (or participant). Therefore, the time and location must be convenient for them (i.e., during business hours, at City Hall or local government agency offices). (Refer to Exhibit 6-25, “Checklist for Briefings”.)

It is generally true that, while elected and agency officials are familiar with how government agencies function and interact with one another, they often do not have the specific technical background that can help them understand all of the issues at hazardous waste sites/facilities, or interpret that information for others in the community.

Those who plan briefings should be aware of the California Open Public Meeting Act, and other “Sunshine Laws” which restrict the number of elected officials which can attend a non-public meeting. Generally, these laws prohibit a majority of a publicly elected or appointed board, council, commission or committee from meeting out of the public view, unless the subject of the “closed meeting” is properly announced and fits a very narrow set of criteria. (For instance, since most city councils consist of five members, no more than two members may attend a briefing that is not part of an open and properly noticed meeting of that city council.)

While DTSC staff members are not liable for these elected/appointed officials’ actions, staff should not call or participate in briefings or meetings that appear to be in violation of these laws.

It also is possible that the press will want to attend briefings. Staff speaking at the briefing should be aware of this, and might consider having a press officer present at the briefing. A press briefing may be held concurrently with the briefing for local officials.

Exhibit 6-25

Checklist for Briefings

___ Arrange a date, time and place that is convenient for the Briefing recipient.

___ Date, time and location of Briefing:

Date: _____

Time: _____

Location: _____

___ Notify key state and local officials, citizens, and other interested parties of the Briefing (if applicable)

___ Prepare presentations

___ Prepare and copy any handout materials

___ Conduct dry run

___ Conduct Briefing

___ Follow-up on any questions which were unable to be answered during the Briefing

Workshops

Workshops are semi-structured gatherings or seminars to assist the public to better understand complex or technical project-specific issues. These discussions are usually led by DTSC project staff and/or individuals from other regulatory agencies, Responsible Parties and proponents with technical expertise in specific areas. A key difference between a workshop and a community meeting is the workshop's emphasis on sharing information in a more interactive way.

Following a brief introduction, participants usually break into small groups to focus discussion on designated project issues. A small group size and "round table" format allow for more information discussion than is usually possible in a community meeting. Workshops can be a particularly useful tool in establishing these communication channels because they allow both agency staff and community members to become more familiar with the individuals and issues involved in a site.

Timing

Site Mitigation workshops are most commonly conducted at complex sites, and may be appropriate at the following times:

- ◆ During the Remedial Investigation: As results from sampling activities become available, holding a workshop can help make the community aware of the actions that DTSC is taking to investigate the problem. Workshops also allow project staff to become more familiar with specific community concerns about the investigation and cleanup, and to develop field activities and cleanup alternatives that the community understands.
- ◆ Upon completion of the draft Remedial Action Plan (RAP)/Removal Action Workplan (RAW), draft Corrective Measure Study (CMS) and Proposed Plan (during the public comment period): Workshops held during this period can help community members better understand why a specific cleanup alternative has been selected as the preferred cleanup alternative. Taking the time to meet on an informal basis with community groups and individuals can alleviate misunderstandings created from misinterpretation of facts or issues.
- ◆ Prior to implementation of the remedial design. A workshop at this point can be helpful in explaining to community groups and individuals the details surrounding implementation of a cleanup remedy. Consider holding workshops if the remedial design will have a significant impact on community members (i.e., construction of a treatment facility, increased traffic in the neighborhood, significant increase in noise, need for technical workers to wear personal protective gear).

HWM workshops are conducted for complex proposals, where several groups or individuals have expressed interest in permitting or closure activities. Consider holding workshops at these points:

- ◆ During review of permit application or closure plan: A workshop can make the community aware of DTSC actions taken to mitigate community concerns. Workshops encourage interaction between DTSC staff and the community and promote the exchange of ideas and concerns.

- ◆ Upon release of a draft permit or closure plan (during the public comment period): Workshops help community members better understand proposed permit or closure plan conditions and their impacts.
- ◆ Prior to issuance of final permit or closure plan: Workshops explain to community groups and individuals the details surrounding the construction and operation of the facility, the closure process, safety precautions, and inspections by regulatory agencies.
- ◆ During appropriate milestones in the corrective action process (e.g., Remedy Selection): Workshops can explain site conditions and clean-up actions, and solicit input from community members.

Refer to Exhibit 6-29, “Briefing/Workshop/Meeting Timeline,” for guidance on establishing a timeline for each of the necessary activities.

Organization issues to consider for a workshop

- ◆ Set starting time when all people are to arrive;
- ◆ Greeting area and staff greeters to welcome attendees;
- ◆ Sign-in Sheet, with Public Records Act disclosure statement, and a space where attendees can indicate how they were informed of the workshop;
- ◆ Agenda explaining options for discussions;
- ◆ Public address (PA) system for remarks;
- ◆ Brief overview of workshop;
- ◆ One large room or several small rooms to accommodate group discussions;
- ◆ Arrange tables in a circle or another configuration that facilitates discussion;
- ◆ Staff at each table, with the appropriate expertise for each topic discussed;
- ◆ Handouts for each technical area discussed;
- ◆ Consider using a “floater” during workshops, to move from table to table, assisting with conflict resolution;
- ◆ Concluding remarks or summary, if appropriate; and,
- ◆ Evaluation forms.

Within two weeks of the workshop, staff who has committed to obtaining information for an individual at the workshop should respond to that person by telephone or in writing, regardless of whether the desired information has been found.

Notifications

Workshops can be announced through the following methods:

- ◆ Newsletters sent out by community groups;

- ◆ Flyers sent directly to each name on the mailing list;
- ◆ Telephone calls to key community leaders;
- ◆ Display advertisements in local newspapers; and,
- ◆ Public service announcements or paid advertisements on local radio and television stations.

The written notification should include the name, address, and telephone number of DTSC staff whom interested individuals can contact for more information.

Exhibit 6-27

Checklist for Workshops

___ Purpose of Workshop: _____

___ Estimated number of attendees: _____

___ Plan the Workshop:

___ Identify topics to be presented

___ Identify agency officials to present topics, handle registration

___ Prepare handouts, other information materials

___ Location of Workshop:

___ Facility name, location: _____

___ Contact person at facility: _____

___ Phone number: _____

___ Occupancy size: _____

___ Handicap accessibility: ___Yes ___No

___ Features: ___Restrooms

___Public Telephone

___Adequate Parking

___ Date and Time of Workshop:

Date: _____

Time: _____

___ Prepare draft notice announcing Workshop (public notice, flyer)

___ Coordinate internal review of notice

___ Prepare final notice

___ Send Workshop notice

___ Make telephone calls to key community leaders to notifying them of the workshop

Open Houses

Open houses are informal gatherings at which community members drop in and talk directly with individual DTSC staff or other specialists about specific concerns and questions. Open houses differ from community meetings and workshops in several ways:

- ◆ No set agenda and no formal presentations are given;
- ◆ Community members do not arrive at the same time. Rather, attendance is spread over a period of several hours, allowing people to attend at their convenience;
- ◆ Transcripts of the meeting are not prepared; and,
- ◆ Any issue of interest may be discussed during the open house, while workshops generally focus on one specific issue.

Open houses provide an excellent opportunity to:

- ◆ Develop a dialogue with community members;
- ◆ Provide community members, who may feel uncomfortable asking questions at a public meeting, with a more informal forum for doing so;
- ◆ Allow community members to have their concerns addressed and to arrive and depart at their convenience; and,
- ◆ Provide a friendly and congenial atmosphere that improves community perception of DTSC.

The informal atmosphere of the open house personalizes the interactions between project staff and the community. As a result, the DTSC staff have the opportunity to build credibility by attending, being responsive to community concerns, and will be viewed as being individually accountable for their statements, comments, and commitments made during the open house.

Timing

Open houses are held:

- ◆ To maintain contact between the community and DTSC staff;
- ◆ When the community wants an update on a long-term project;
- ◆ Between technical milestones; or,
- ◆ When there are no apparent controversies.

An open house can be initiated by DTSC or upon request of a community at any time during the project.

Organization issues to consider

Organization issues to consider for an open house include:

- ◆ Set “opening” and “closing” times;
- ◆ Ensure staff with expertise in different areas of the investigation and cleanup process are present at information tables to talk with community members;

- ◆ Staff greeters to welcome people as they arrive;
- ◆ Provide sign-in sheet, with Public Records Act disclosure statement, and a space where attendees can indicate how they heard about the open house;
- ◆ Staff greeters should inquire about each attendee’s general concerns, and direct that person to the appropriate information table;
- ◆ Identification labels should be placed above each information table to aid attendees in locating their area of interest or concern.
- ◆ Handouts should be available at information tables (e.g., fact sheets, reports, executive summaries, charts, or background literature) for attendees to take home.
- ◆ If an open house is held during a public comment period, forms should be available which allows the public member to leave written comments. Ensure that a collection box for comments is available and visible. Additionally, a court reporter could be on hand to record verbal comments;
- ◆ Staff at the information tables should take careful notes about any issues they have committed to investigate further;
- ◆ Staff who are investigating issues should respond, within two weeks after the open house, to persons who made the inquiries, regardless of whether the desired information has been found. The response may be by telephone or in writing;
- ◆ Consider using a “floater” during open houses. The role of a floater is similar to that of a facilitator. The floater moves from table to table, assisting with conflict resolution. For example, a floater might suggest that DTSC staff follow up on questions that cannot be answered during the open house, or might otherwise facilitate interactions between the community and DTSC and others staffing the open house; and,
- ◆ Encourage all attendees to fill out an evaluation form, which can be used later to evaluate the usefulness of this public participation technique.

Notification

Notify community members about the open house in the same manner as for workshops. Prior to the open house, a fact sheet or flyer should be sent out providing background on the issues to be discussed at the open house. Use fact sheets, e-mail and other notification materials to encourage community members to attend the open house with specific questions or issues in mind. Explain the open house format in these materials.

Preparation

Preparation for the open house is similar to that for a community meeting or any other presentation. Staff meetings should take place prior to the open house to determine who will discuss each topic, and to participate in a modified “dry run”. Each individual should develop responses to anticipated questions or areas of concern, and should practice these responses. All agency staff participating in the

open house should be well-informed and patient when responding to difficult questions and situations.

In addition, consider using and visual aids similar to those used for community meetings. Room size is also a key logistical factor, the room must be large enough to accommodate several “information tables”, at which staff will be stationed to talk with community members. Make chairs available.

Open House Logistics

In planning an open house, there are many details to be considered. For the most part, these details are addressed in AMeeting Logistics@.

Exhibit 6-28

Checklist for Open Houses

- Location for Open House:
 - Facility name, location: _____
 - Contact person at facility: _____
 - Phone number: _____
 - Occupancy size: _____
 - Handicap accessibility: Yes No
 - Features: Restrooms
 - Public Telephone
 - Adequate Parking
- Date and Time of Open House:
 - Date: _____
 - Time: _____
- Prepare draft notice of Open House (public notice, flyer)
- Coordinate internal review of notice
- Prepare final notice
- Identify agency officials to attend Open House
- Notify citizens of Open House
 - Direct mailing to citizens on project mailing list
 - Verify the mailing list is up-to-date
 - Request mailing labels
 - Public notice in local newspaper(s)
- Prepare handouts, other informational materials for Open House
- Make telephone calls to notify key community leaders of the Open House
- Interpretation

Community Meetings

Community meetings are one of the most commonly used public participation activities. When planned and conducted properly, meetings can be an excellent way to explain remedial site or permit/closure plan issues to community members and to respond to questions and concerns.

Because meetings usually involve large numbers of people (both attendees and participants) they also present opportunities for misunderstandings and misquotes by the public and the media. It is, therefore, essential to plan and prepare properly for all public meetings. Some meetings are required by law or regulation at certain points in the site mitigation or permit/closure plan processes. Other meetings are held at the discretion of the Project Manager or Public Participation Specialist.

When is a meeting appropriate?

Preparing for and conducting meetings can be extremely resource intensive, therefore, it is best to conduct them at sites/facilities in which community members have expressed interest. To determine if a public meeting is appropriate, consider the following issues:

- ◆ Regulatory/statutory requirements;
- ◆ Target audience;
- ◆ Size of target audience;
- ◆ Types of information to be conveyed; and,
- ◆ Specific issues of repeated concern.

A “rule of thumb” to follow when deciding whether to conduct a meeting is to identify the information that needs to be conveyed and the target audience for the information. Then determine whether a community meeting will convey this information to the audience in the most effective manner. For example, if meetings have been held for the site/facility in the past and only a few people have attended, or if the same issues are raised repeatedly about the site/facility, it might be better for the Project Manager or Public Participation Specialist to meet with interested community members individually or in small groups, or to sponsor workshops that examine the issues in depth. If there are many groups or individuals with general concerns, however, a meeting may be the best vehicle for reaching the community.

Timing

Site Mitigation: The California Health & Safety Code, requires that DTSC hold one or more community meetings during the minimum 30-day public comment period on the draft Remedial Action Plan (RAP), and if public interest exists, Removal Action Workplan (RAW).

In addition to the release of the draft RAP/draft RAW, there are other points in the investigation and cleanup process at which community meetings should be conducted:

- ◆ Kick-Off Meetings. These meetings are held at the beginning of the investigation process. Kick-off meeting agendas typically include:

- A discussion of the investigation and cleanup process;
 - An explanation of why DTSC is investigating the site;
 - A description of the activities proposed in the remedial investigation (RI) workplan; and,
 - A question and answer session.
- ◆ Progress Report Meetings. These are meetings held during the RI to update the community about ongoing activities, sampling results, and the future direction of the project.

Regulatory agencies often find these meetings helpful in receiving input from community members about the technical investigation, particularly regarding areas of the site that may be sources of contamination because of past activities. The typical progress report meeting agenda consists of:

- An update on actions taken and sample results received since the last meeting; and,
- A question and answer session.

HWM: Community meetings are not required during the permit, closure plan or corrective action process. However, community meetings (either large or small) are recommended for “high interest” projects. Timing for recommended community meetings is included in the schedule contained in the Public Participation Plan prepared for a facility project.

There is no formula for determining the most appropriate time to hold a community meeting; however, since the permit/closure plan determination process can be lengthy, DTSC policy recommends that a community meeting be held when sufficient interest develops about the proposed permit application or closure plan to warrant a meeting.

In general, at the beginning of the process, the information supplied by the applicant may be inadequate, and holding a public information meeting may be premature. However, if the decision to hold a meeting is delayed until the very end of the process, there may be insufficient time to address public concerns. The decision of when to hold a community meeting should be based on the judgement of the Public Participation Specialist in consultation with the Project Manager. A meeting also may be scheduled when particular technical milestones are reached. Some other items to consider include the following:

- Number of different groups that have contacted DTSC for information on the facility, and the frequency of communication;
- Media coverage of the facility;
- Quantity and quality of available information that can be used to present a clear picture of the facility to the community;
- Level of environmental activism in the community;
- Complexity of the proposed facility permit or closure plan;

- Existence of risk issues; and,
- Proposed facility type (incinerator and land disposal).

Other concerns, including requests from other governmental agencies and elected officials, also may influence meeting timing. Since meetings are expensive and resource intensive, all timing-related issues should be considered in determining whether to hold a community meeting.

Environmental Impact Report (EIR) Scoping Meetings

The lead agency is encouraged to hold an “early consultation” meeting with all interested parties to identify all concerns, including economic and social effects, that will be addressed in the EIR.

There are two types of scoping meetings:

- 1) Agency-only scoping meetings are only open to public agencies and the involved consultant under signed contract with the lead agency to prepare the EIR. These meetings are usually held during normal business hours; and,
- 2) Public scoping meetings are open to interested public members, along with public agencies, and are normally held in the evening.

Public scoping meetings are encouraged for all “high” interest projects, such as, new incinerators, controversial permit renewals, and Treatment Storage and Disposal facilities (TSDs).

The targeted audience for a scoping meeting is dependent upon the level of community and agency interest. To determine which audience the scoping meeting should be directed to, consult with the Public Participation Specialist.

Remedial Action Plan (RAP) / Removal Action Workplan (RAW) Public Meetings

The California Health & Safety Code, requires that DTSC hold one or more public meetings during the minimum 30-day public comment period on the draft RAP and, if public interest exists, the draft RAW. The purpose of the meeting is to present information and to receive any public comments on the draft RAP/draft RAW. All comments must be answered formally in the “Response to Public Comments” process (also known as a Responsiveness Summary). Specific activities that must be conducted for the public comment period meeting are discussed below.

Public Comment Period and RAP/RAW Meeting

These meetings are held during the required minimum 30-day public comment period on the draft RAP/draft RAW. State law requires that the content of these meetings include:

- ◆ An assessment of the degree of contamination;
- ◆ The characteristics of the hazardous substances;

- ◆ An estimate of the time required to carry out the removal or remedial actions; and,
- ◆ A description of the proposed removal or remedial actions.

In addition, DTSC's RAP Policy states that the meeting should also present:

- ◆ Risk to human health and the environment posed by site conditions;
- ◆ A discussion of all alternatives considered, including those rejected; and
- ◆ The rationale for selection of the proposed removal or remedial action.

A typical RAP/RAW meeting agenda to meet these requirements includes:

- ◆ Public involvement opportunities;
- ◆ An overview of the cleanup alternatives;
- ◆ A description of the proposed alternative;
- ◆ A question and answer period to clarify the information presented; and,
- ◆ A comment period.

Although not required by State law or regulation, it is in DTSC's RAP Policy that a transcript be made of the comments received during the public meeting. This allows the actual comments to be entered into the administrative record, thus protecting the rights of the community and the agency receiving the comments.

In addition to the above, the California Health and Safety Code, also requires that the regulatory agency:

- ◆ Use a newspaper notice to announce the public comment period (ensure that a display ad is used and that the date, time and place of the public meeting is included in the ad and place the ad on DTSC's web site);
- ◆ Notify contiguous property owners, affected agencies;
- ◆ Post notices near the proposed removal site; and
- ◆ Evaluate and respond to all comments received during the public comment period.

Community Meeting for a Proposed Plan (on NPL sites)

Similar to a RAP/RAW Community Meeting, the Proposed Plan Community Meeting shares the cleanup alternatives evaluated in the Feasibility Study and then explains the rationale for choosing a preferred alternative. CERCLA is the law governing this type of meeting. It requires that a transcript of the meeting be kept on record. The law also requires that:

- ◆ The proposed plan be released and announced at the start of the comment period (usually this is done in a fact sheet type format);
- ◆ The proposed plan summary and a notice of the meeting be published in a local newspaper of general circulation; and,

- ◆ All comments received during the comment period (including the meeting) be addressed in the Response to Public Comments document.

For additional information, please see U.S. EPA's *Community Relations in Superfund: A Handbook* (EPA/540/R-92/009, January 1992).

Other Meetings

Other types of meetings may be appropriate at certain points during a project in order to keep involved and interested parties up-to-date on the processes and progress of a project. The following describes those other types of meetings.

Small Group Meetings

Small informal meetings with community groups are useful for discussing site-related issues of particular interest to a group. These meetings can be held at any point during the site mitigation process at the request of the community group. The meetings should be conducted by teams of individuals familiar with different aspects of the site, such as the risk assessment and the Remedial Investigation. This type of approach ensures that most, if not all, questions can be answered immediately, and that community members have an opportunity to meet with DTSC and other regulatory agency staff in an informal setting.

The small group meetings will be held at the request of community groups. DTSC will announce its availability for meetings in a number of ways:

- ◆ Fact Sheets;
 - ◆ Media outlets such as public notices, press releases, and public service announcements;
 - ◆ Newspaper advertisements;
 - ◆ Announcements in newsletters published by civic, environmental, or trade groups (i.e., Chambers of Commerce, Farm Bureau, Sierra Club, American Association of Retired Persons, Rotary Club, etc.); and,
 - ◆ Direct mail notification to community members on the site mailing list.
-

Technical Review Committee (TRC) Meeting

Traditionally, this is a meeting of a team of technical experts, including a minimum of one community person, who are managing the investigation of a hazardous waste project at a military base. However, some Restoration Advisory Boards (RAB) have designated subcommittees with this same name. In those instances, the subcommittee is made up of RAB committee members only.

Restoration Advisory Board (RAB) Meeting

A meeting of a team of technical experts, in conjunction with community members, that are responsible for reviewing and monitoring the progress of remediation at closing military bases. The RAB community members are to share the information with the larger community, thus increasing the communication between the site Project Managers and the interested community.

Community Advisory Board (CAB) Meeting	Similar to a RAB, this is a meeting between technical experts intimately working on a site and interested community members. The purpose of the meeting is to share information with the community on a regular basis and receive their comments and concerns. In turn, the CAB community members are to act as liaisons with the larger community that they represent, thus increasing the amount of information being shared.
Interagency Meetings	Designed to bring together agencies involved or interested in a project or decision in order to disseminate information, coordinate actions, review proposals, etc. May also involve private groups or individuals. (Note: Once a private individual is invited to an interagency meeting, the meeting is open to all members of the public.)
Panel Discussions	Forums put on to present a variety of viewpoints on a specific issue. Usually involve a moderator and may evolve into a debate. Speaking time is limited, with a portion of the time given to questions from the audience or another panel. Panelists may vary, but should present the full spectrum of viewpoints within a community.
Community Advisory Group Meetings	A formal assembly of community leaders, meeting regularly to discuss a site's or facility's progress. Membership may or may not include agencies, although agencies are usually invited to participate. Decisions by the group are passed on to the lead agency for consideration.

Meeting Planning & Organization

The success of a meeting depends, in large part, on adequate preparation. There are many issues and details to consider when planning a meeting, from checking on audio/visual equipment to making sure that all speakers are familiar with their topics. Prior to the meeting, the goals should be identified and staff responsibilities should be outlined.

Meeting Goals	<p>First, decide the purpose of the meeting—what DTSC hopes to gain from the meeting and what the community should gain from the meeting. These goals should be kept in mind throughout the preparation phase and should be used to tailor the presentations. Any meeting may have a number of goals, which might include:</p> <ul style="list-style-type: none"> ◆ Helping the community to better understand technical activities under the site mitigation or permit/closure plan processes; ◆ Soliciting community input on proposed agency actions; ◆ Highlighting progress made by DTSC at a site cleanup; ◆ Explaining to community members the site cleanup or permit/closure plan processes and how they can participate in those processes; ◆ Increasing DTSC credibility; or,
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- ◆ Helping the community understand the regulatory structure and why site mitigation or permit/closure plan determinations can take a long time to complete.

The Project Manager or Public Participation Specialist may wish to call the key community members involved at the site and review the agenda with them to make sure that the community's concerns also will be addressed at the meeting.

Determine Staff Responsibility

Determine at the start of the planning process the roles and responsibilities of project team members. The team may consist of the Project Manager, Public Participation Specialist, Responsible Party, Zone Contractor, and other DTSC staff such as toxicologists or geologists. The project team should use the "Community Meeting/Hearing Checklist" form to decide who will be responsible for:

- ◆ Meeting room reservations and equipment;
- ◆ Public notification;
- ◆ Meeting agenda development;
- ◆ Practice sessions;
- ◆ Graphics or handouts;
- ◆ Meeting facilitation; and,
- ◆ Speaker assignments and topics.

The Public Participation Specialist should be consulted for assistance in acquiring meeting rooms, and developing agendas, graphics, and practice sessions. If there is contractor support for the project, contractor staff can assist in many of these activities.

In addition, the team must decide who will facilitate the meeting and what topics each speaker will cover in his/her presentation. Each team member should recognize that he/she has a responsibility to both the project team and the community to spend the necessary amount of time preparing for the meeting to ensure that the presentation is clear, concise, and given at a level that community members will understand. This responsibility includes making time commitments for planning meetings, "dry run" practice sessions, and post-meeting critique sessions.

Meeting Logistics

In planning a meeting, there are many details to be considered, including:

- ◆ Location;
- ◆ Date and Time;
- ◆ Arrangements of room seating;
- ◆ Equipment; and,
- ◆ Audio and Visual Aids.
- ◆ Access to the internet.

Each of these details is discussed below and, in addition, the project team should utilize the "Community Meeting/Hearing Checklist" form (Exhibit 6-30).

Meeting Location

The meeting should be held in a location that is convenient for interested community members. Suitable meeting rooms will be able to accommodate comfortably from 15 up to 200 people, depending on the nature of the meeting and the anticipated attendance. Sometimes even larger accommodations are necessary. Possible meeting locations will be identified in the Public Participation Plan. Many cities and towns have community centers with rooms suitable for meetings. Classrooms or multi-purpose rooms in local schools, and meeting rooms in libraries or government centers also can be good locations for workshops. Work with staff in city halls, libraries, school district offices, or chambers of commerce to locate available meeting facilities.

The location should be a neutral one for all participants. The main objective of any public meeting is to hear the concerns/issues from all segments of the community and to respond to those concerns. If a factor, such as the meeting location, alienates a segment of the attendees, it can hinder the overall effectiveness of the meeting. For instance, if there is a faction that is at odds with City Hall, it would not be a good idea to hold the public meeting there. Project staff should consult the Public Participation Plan prior to making major decisions that affect an entire community; this makes it imperative that the Public Participation Plan be a thoroughly researched document that is truly representative of the community. The meeting location must be accessible to all, including disabled persons.

Meeting Date and Time

Make sure that key people interested in the site/facility (i.e., community group representatives and elected officials) will be able to attend the meeting on the suggested date. The Public Participation Specialist should consider the best time for meetings for that community. A retirement community may wish to hold meetings during weekday afternoons, or a community of commuters may be unavailable at times other than a weekend evening. When setting a meeting date, think about holidays or other events that might prevent people from attending the meeting (i.e., income tax deadline, World Series, school vacations). Also consider other meetings being held at the same time that might conflict with the DTSC meeting, such as meetings sponsored by the local congressional representative, PTA, or City Council. Set the date and time well ahead of the meeting date so community members have sufficient notice.

Arrangements

Refer to the “Community Meeting/Hearing Checklist” (Exhibit 6-30):

- ◆ Make meeting room arrangements as early as possible, preferably at least one month in advance;
- ◆ The meeting location must be determined before the meeting can be announced;
- ◆ Determine if there is a usage fee for the facility. (Note: as a government agency, DTSC often is excused from such fees; however, if there are fees associated with having custodians available for setting up the room, etc., complete a DTSC Service Authorizations (form DTSC 1013); and,
- ◆ Make certain that the meeting room is available for the adequate period of time needed to complete the meeting (e.g., 7-10 p.m.). It is important to the success of the meeting that participants are comfortable in the meeting room, so check:

- ◆ Lighting (locations of the switches and which switches control which lights), and if light adjustments may be made without a custodian;
- ◆ Air conditioning/heating system, and if temperature adjustments may be made without a custodian; and,
- ◆ Seating arrangements and tables, and if rearrangements may be made without a custodian.
- ◆ Meeting room must be accessible to the disabled.

It is advisable to:

- ◆ Arrive at the meeting location at least one hour before the meeting starts to make sure the room is properly set up and equipped; and,
- ◆ Post signs outside of or in the building that direct people to the meeting room.

Meeting room operators may ask DTSC staff (or contractors) to sign “save-harmless” insurance certification. Be aware that the State is self-insured and employees are not authorized to sign such certification. A sample Department of General Services (DGS) letter, stating these facts, is shown in the Appendix and should be requested from DGS if a “save-harmless” insurance certification is requested by the operator of a facility in which a DTSC meeting is being arranged. The DGS, Risk and Insurance Management’s telephone number is (916) 324-6434. A standard form also exists for use with school districts (see the Public Participation Specialist for a copy).

Interpreter Services

If the site/facility is in an area where community members are non-English-speaking, consider having the meeting interpreted simultaneously into the language that the community speaks (e.g., Spanish, Vietnamese, American Sign Language).

Interpreting may be conducted using different approaches:

- ◆ Simultaneous Interpretation - When only a small number of people in the group require the service or when headphones are used to convey the interpreted messages.
- ◆ Stitched Interpretation - When the interpreter interprets a sentence or phrase, alternating with the English-speaking person making the presentation.

If an interpreter is necessary:

- ◆ Arrange for interpreters far in advance of meeting date;
- ◆ Determine if these services are available free through local agencies; or identify certified interpreters which provide these services. Interpreter services may be available through a DTSC contract, a Responsible Party, a proponent, or may be purchased. Fees are generally involved, therefore, a DTSC Service Authorizations (form DTSC 1013) must be completed;
- ◆ Include in the meeting notice to community members that interpretation will be available at the meeting (ensure that the meeting notice is translated into the language that the community speaks);

- ◆ Consider translating handouts distributed at the meeting;
 - ◆ If possible, send the interpreter an advance copy of the prepared speeches.
 - ◆ Ensure that the interpreter interprets everything said in the meeting so that everyone can have their questions and concerns addressed; and,
 - ◆ If necessary, provide for American Sign Language interpretation.
-

Equipment

Refer to the “Community Meeting/Hearing Checklist” (Exhibit 6-30). The meeting room must include a:

- ◆ Screen or large empty wall space for visual presentations;
- ◆ Public address (microphone) system, depending on the size of the group;
- ◆ Table at the entrance to the room for the sign-in sheet and handouts;
- ◆ Sign-in sheet (with pens) to identify and track those community members attending meetings for the site/facility, and assist in building the mailing list.

The meeting facility may be equipped with the following items; if not, be certain to bring them from the office:

- ◆ Slide/overhead projectors;
- ◆ Screens;
- ◆ Flip charts;
- ◆ Microphones; or,
- ◆ Other items needed.

Often schools and community centers can provide this equipment; however, it must be requested when reserving the room. Be certain to check all equipment for proper working order before the meeting (e.g., batteries and light bulbs are working properly). Consider bring spare bulbs and batteries as insurance.

Supplies to remember for meeting:

- ◆ Sign-in sheet with pens
- ◆ Handouts;
- ◆ Transparencies;
- ◆ Slides; or,
- ◆ Other items needed.

Before leaving for a meeting, be sure to look at the “Community Meeting/Hearing Checklist” (Exhibit 6-30) to ensure nothing important is omitted.

Meeting Debriefing

At the end of each meeting, ask the participants to fill out an evaluation sheet to help identify areas in which the community needs more information.

The debriefing session, held within two to three days of the meeting, is attended by

the DTSC meeting participants. The debriefing is to critique the meeting, improve on future meetings, and identify plans for following up on any action items.

Information from the evaluation form can assist in the debriefing process, as well as identify the needs and concerns of meeting participants. Critiquing the meeting can help to refine presentations and discover which techniques, speaking styles, and visual aids are effective in communicating with the public.

Exhibit 6-29

Briefing/Workshop/Meeting Timeline

Activity	Production Time (in work days)						Mail Date
	30	25	20	15	10	5	
Determine preferred date	X						0
Find meeting location	X						0
Check with key community members to determine if they will be able to attend; ask if there are items that should be discussed at the meeting	X						0
Contact newspaper (or DTSC contract provider) and other media to determine billing needs and proper format for information		X					0
Meet with staff who will make presentations at the meeting to establish agenda and goals; determine responsibilities		X					0
If topics are identified that cannot be addressed by staff, identify individuals with appropriate expertise and ask them to participate		X					0
Begin working with graphic artist to develop graphics		X					0
Develop flyer for distribution to community members			X				0
Develop newspaper advertisements and/or public service announcements (PSAs)			X				0
Arrange for court reporter, if applicable			X				0
Circulate ads or PSAs for concurrence				X			0
Review graphics and revise if necessary				X			0
Send ads or PSAs to media or DTSC contract provider						X	0
Locate necessary equipment and determine billing needs and/or reserve equipment						X	0
Make certain that ads/PSAs are appearing as scheduled						X	0
First dry run, with graphics						X	0
Revise graphics, if necessary						X	0
Determine which graphics should be used as handouts; print copies						X	0
Second dry run, with evaluation						X	0
Make sure equipment will be available						X	0
Make sure all handouts, view graphs, and other graphics are ready						X	0
Pick up equipment						X	0
Review checklist						X	0
Arrive at meeting place at least one hour early to check room, set up equipment, chairs and tables (earlier if a third dry run will be held in the meeting room)						X	0

Exhibit 6-30

Community Meeting/Hearing Checklist

Planning Meeting Date: _____ Project: _____

Meeting/Hearing Purpose: _____ Targeted Date: _____

Participants: _____

Meeting/Hearing Preparation Activities

Responsible Person(s)

Due Date

<input type="checkbox"/> Set meeting/hearing goals	_____	_____
<input type="checkbox"/> Set date and time	_____	_____
<input type="checkbox"/> Set meeting location (schedule) (map)	_____	_____
<input type="checkbox"/> Prepare Service Authorization	_____	_____
<input type="checkbox"/> Send Insurance Certificate Letter	_____	_____
<input type="checkbox"/> Expected number of people attending	_____	_____
<input type="checkbox"/> Seating capacity	_____	_____
<input type="checkbox"/> Contact person at facility and phone number	_____	_____
<input type="checkbox"/> Schedule court reporter (contract)	_____	_____
<input type="checkbox"/> Schedule interpreter (contract)	_____	_____
<input type="checkbox"/> Notify panel participants	_____	_____
<input type="checkbox"/> Prepare agenda	_____	_____
<input type="checkbox"/> Prepare meeting evaluation forms	_____	_____
<input type="checkbox"/> Prepare public comment forms	_____	_____
<input type="checkbox"/> Prepare comments for keynote speaker/hearing officer/facilitator	_____	_____
<input type="checkbox"/> Prepare oral presentations	_____	_____
<input type="checkbox"/> Select facilitator (name)	_____	_____
<input type="checkbox"/> Prepare visuals (slides, graphics, display)	_____	_____
<input type="checkbox"/> Set day, time and place for participants rehearsal	_____	_____
<input type="checkbox"/> Select rehearsal facilitator (name)	_____	_____
<input type="checkbox"/> Outline meeting/hearing ground rules	_____	_____
<input type="checkbox"/> Follow-up coaching for participants	_____	_____
<input type="checkbox"/> Reserve equipment	_____	_____
<input type="checkbox"/> Arrangement for room, keys, etc.	_____	_____
<input type="checkbox"/> Bring equipment to meeting room (if applicable)	_____	_____
<input type="checkbox"/> Coordinate with the Public Information Officer (PIO)	_____	_____
<input type="checkbox"/> Set date/time for debriefing meeting	_____	_____
<input type="checkbox"/> Select debriefing facilitator (name)	_____	_____

Exhibit 6-30 ♦ Community Meeting/Hearing Checklist (cont'd)

<u>Announcement Activities</u>	<u>Responsible Person(s)</u>	<u>Due Date</u>
<input type="checkbox"/> Call key agencies	_____	_____
<input type="checkbox"/> Print mailing labels	_____	_____
<input type="checkbox"/> Prepare and send fact sheet	_____	_____
<input type="checkbox"/> Prepare and send press release	_____	_____
<input type="checkbox"/> Prepare and place radio ad	_____	_____
<input type="checkbox"/> Prepare and place display ad	_____	_____
<input type="checkbox"/> Send materials to repositories	_____	_____
<input type="checkbox"/> Prepare and send meeting flyers to mailing list	_____	_____
<u>Room Arrangement Activities</u>		
<input type="checkbox"/> Room layout	_____	_____
<input type="checkbox"/> Room set-up (tables, chairs, press)	_____	_____
<input type="checkbox"/> Room opens (time)	_____	_____
<input type="checkbox"/> Room closes (time)	_____	_____
<input type="checkbox"/> Set-up time	_____	_____
<input type="checkbox"/> Security: YES NO	_____	_____
<input type="checkbox"/> Janitorial services	_____	_____
<input type="checkbox"/> Restrooms (open/location)	_____	_____
<input type="checkbox"/> Lights (switch location(s))	_____	_____
<input type="checkbox"/> Ventilation	_____	_____
<input type="checkbox"/> First Aid Supplies	_____	_____
<input type="checkbox"/> Refreshments	_____	_____
<input type="checkbox"/> Lecterns	_____	_____
<input type="checkbox"/> Rental fees?	_____	_____
<input type="checkbox"/> Return room to original condition	_____	_____
<u>Equipment</u>		
<input type="checkbox"/> Slide projector/bulbs	_____	_____
<input type="checkbox"/> Overhead projector/bulbs	_____	_____
<input type="checkbox"/> Film projector	_____	_____
<input type="checkbox"/> Projector bulbs	_____	_____
<input type="checkbox"/> VCR/Monitor	_____	_____
<input type="checkbox"/> Screen	_____	_____
<input type="checkbox"/> Microphones (stationary/remote)	_____	_____
<input type="checkbox"/> Cassette recorder/tapes/batteries	_____	_____
<input type="checkbox"/> Press hook-up	_____	_____
<input type="checkbox"/> 35mm camera/tape	_____	_____
<input type="checkbox"/> Video camera/tape	_____	_____
<input type="checkbox"/> Extension cords/3-prong plugs	_____	_____
<input type="checkbox"/> Pointers	_____	_____

Exhibit 6-30 ♦ Community Meeting/Hearing Checklist (cont'd)

<u>Supplies</u>	<u>Responsible Person(s)</u>	<u>Due Date</u>
___ Name plates/name tags	_____	_____
___ Directional signs	_____	_____
___ Copies of agenda/evaluation forms	_____	_____
___ Copies of most recent fact sheet	_____	_____
___ Copies of generic fact sheets	_____	_____
___ 3 x 5 index cards	_____	_____
___ Pens	_____	_____
___ Markers	_____	_____
___ Easel/flip chart	_____	_____
___ Blank paper and poster paper	_____	_____
___ Chalk	_____	_____
___ Eraser	_____	_____
___ Masking tape	_____	_____
___ Scissors	_____	_____
___ Business cards	_____	_____
___ Pointer	_____	_____
<u>Meeting Follow-up Activities</u>		
___ Return equipment	_____	_____
___ Debriefing among participants to evaluate meeting/hearing	_____	_____
___ Respond to requests for information	_____	_____
___ Distribute transcripts/minutes	_____	_____
___ Action items list	_____	_____
___ Response to public comments	_____	_____
___ Prepare meeting evaluation and distribute	_____	_____
___ Send "thank-you" letters	_____	_____

Meetings - Notifications

Public Notification of Meeting

At least two weeks prior to the meeting, the public, local officials, and other interested parties should be notified of the meeting date, time, location, purpose, and where to call for additional information. Methods of public notification might include the following:

Advertisements

Permit public hearings, Remedial Action Plan (RAP)/Removal Action Workplan (RAW) meetings and California Environmental Quality Act (CEQA) meetings have specific notification requirements. Refer to the specific sections in this manual, which discuss these processes. The California Health and Safety Code, requires that DTSC notify the public of the draft Remedial Action Plan meeting in a newspaper advertisement. Similar to draft Remedial Action Plan community meetings, other types of community meetings, also use display advertisements in local newspapers to inform the public of upcoming meetings.

Direct Notices

Direct notices announcing the meeting should be sent to all individuals on the project mailing list. The announcement (e.g., fact sheet, flyer, letter) will advertise the meeting date, time, location, purpose, and where to call for additional information. (Refer to “Fact Sheets” in Chapter 6C.)

Supplementary Methods of Notification

In some situations, particularly those in which the target audience does not read the main newspaper or does not speak English as a primary language, it may be necessary to identify supplementary methods of notifying the public. They may include:

- ◆ Public service announcements on local radio and television programs (translated if necessary);
- ◆ Advertisements in community newspapers or newsletters and,
- ◆ Working with community group leaders to notify community members via word-of-mouth.
- ◆ Post on DTSC web site and e-mail notices.

Meetings - Presentations

Planning

The key to a successful public meeting is to effectively communicate information and ideas to the community, and provide an organized forum where the community can express its views. The use of effective speakers, interesting audiovisual aids, and effective meeting facilitation can help meet these goals.

Try to anticipate questions or concerns that community members may raise that would best be addressed by someone outside of the designated meeting team. For example, the community may have concerns about the health effects of contaminants found at the site/facility; therefore, a toxicologist who is familiar with the issues should be present to answer any questions or make a presentation. Project staff in attendance should be familiar with the resources available both within DTSC and from other agencies, such as the Air Resources Board or the Regional Water Quality Control Board. County or federal agencies also working at the site/facility should be included in the meeting. Any speakers from other agencies should be included in the meeting planning process, and should participate in dry runs.

Project staff participating in the meeting should be prepared to answer questions from participants, especially questions that are anticipated to be particularly difficult. Prepare for these “Question & Answers” sessions by using a two-step process: 1) develops a list of questions that the community might reasonably ask; and, 2) develop answers to these questions. If there are questions that speakers cannot answer, identify someone who is better qualified to address that topic, and ask that person to help develop responses to the questions and attend the meeting.

Developing

As speakers develop their presentations, they should consider the audience they will be addressing by identifying the audience's:

- ◆ Knowledge of the site/facility;
- ◆ Familiarity with the technical issues surrounding the site/facility;
- ◆ Familiarity with government regulatory programs and agencies; and,
- ◆ Interest in specific issues such as health effects or real estate values.

Presentations should be organized to address these community concerns and interests. When developing presentations:

- ◆ Direct presentation to the audience;
- ◆ Limit the use and abuse of regulatory and technical jargon; and,
- ◆ Pay attention to how issues of “risk” are communicated.

Outline

One of the tools used to ensure a concise, cohesive presentation is an outline. In preparing an outline, the presenter needs to consider what information he/she would like to impart to the audience. Presentations must have a purpose, and the initial definition of that purpose rests with the presenter. The Public Participation Specialist will provide input to ensure that the presentation is well rounded and that it anticipates the questions and concerns of the specific community.

The first question the presenter must ask when developing the outline is “What activities/events have taken place regarding the site/facility since the last time DTSC communicated with the community?” The answer to this question can serve as the nucleus of the meeting agenda.

- ◆ The information should be evaluated and broken down into specific categories and issues;
 - ◆ Examination of these categories and issues then are needed to identify other related information or sub-categories that might be relevant to the presentation;
 - ◆ After evaluating the above, the presenter should develop an outline that addresses all of the new and relevant information that the community needs.
-

Use of Jargon

Speakers must consider the audience’s level of understanding of the issues being discussed:

- ◆ Avoid acronyms, jargon, and technical terms wherever possible;
 - ◆ If using some terms is unavoidable, send a fact sheet to expected meeting attendees prior to the meeting to introduce them to the meeting topics, including definitions of commonly used terms (also make the fact sheet available at the meeting);
 - ◆ Further determine whether the average community member will understand the terms used;
 - ◆ For example, many people are not familiar with a term like “extraction wells”, so the purpose and operation of an extraction well could be explained, using a drawing of a well to help in the explanation.
-

Delivery

“Style” is another important issue to be aware of when making a presentation. A presentation that is short, easy to understand, and accompanied with simple graphics may fail to inform the audience if it is presented poorly. In general, the success of a presentation is as dependent on the speaker’s self-confidence as it is on content. Most people could benefit from participation in groups geared towards developing and enhancing public speaking skills, such as Toastmasters (a non-profit, non-partisan group designed to help people become better public speakers). These types of organizations allow individuals to practice speaking on a range of topics in front of small, non-threatening groups. Short of requiring that all staff who participates in public meetings join Toastmasters, the following suggestions can be followed:

- ◆ Practice giving the presentation for as many people as possible. Do not hesitate to deliver it to friends, family, and colleagues.
- ◆ Practice speaking in front of a mirror, to have an idea of how one appears to the audience.
- ◆ Record the presentation on video or audio tape and watch/listen to it. Identify areas of stumbling, words that are too technical, or points of uncertainty.

Another factor that will increase the quality of presentations is ensuring that the speaker is comfortable with the topic and prepared to answer questions. Anticipate ahead of time the questions that community members will ask. Ensure that the speaker can answer the questions or that appropriate individuals are present. It is important to hold practice sessions prior to the meeting.

Meetings - Risk Communication

Explaining the level of risk that a site/facility presents to human health and the environment often poses difficult communication problems. The information provided in this section is designed to help project staff in thinking about issues of risk communication. It is by no means a complete guide to risk communication, which is a relatively new and inexact field. Those who anticipate involvement in risk communication should pursue training opportunities and read available outside information on the subject.

Risk communication is problematic because the concepts being communicated are difficult for people to conceptualize. For example, the following statements are not easy to understand:

“The risk of developing cancer as a result of exposure to TCE at this site/facility is one in one million.”

or

“The levels of dioxin found in soil increased from three parts per billion (ppb) to one part per million (ppm).”

These statements are confusing for two reasons: 1) they use jargon (three ppb, one ppm), and, 2) they combine levels of measurement, further confusing the listener. Most people do not have a reference for numbers like one in one million or five parts per billion. When communicating large numbers, consider translating them into figures the audience will understand, or expanding the definition (i.e., “DTSC has found three parts dioxin per one billion parts of soil at the site.”).

Risk communication is difficult because each individual brings to the discussion personal values that influence how he/she perceives the risk.

- ◆ Risk communication must be careful to differentiate between risks that result from direct choices of action (i.e., smoking, flying in a plane) and those which result from indirect or involuntary choices (i.e., the contamination found in soil or groundwater as a result of neighboring industrial operations).
- ◆ There is a profound psychological difference between how people perceive a risk that results from a direct choice and one that results from indirect choice.
- ◆ The potential impacts of direct and indirect choices should not be compared.
- ◆ Risk communicators may wish to encourage discussions of the ways in which our choice of lifestyles and patterns of consumption directly influence industrial production.

Community Loyalties and Economic Interest

Project staff must be aware of the community’s loyalties and economic interests.

- ◆ In some instances, a responsible party may be the economic backbone of a community, and community members will be reluctant to acknowledge that an industrial operation may pose a potential risk to their health.

- ◆ In such cases, community members are likely to cite all the people they know who have worked at the facility all their lives with no adverse health effects.
- ◆ Be sure to state the facts of the risk — what is known about exposure to the chemical and why government agencies are concerned about the levels found at this site/facility.
- ◆ By adhering to the facts of the situation, DTSC is less likely to be accused of “taking sides” or having a hidden agenda.
- ◆ DTSC must be careful not to be perceived as trying to “sugar coat” the potential risks posed by a site.

Meetings - Audio & Visual Aids

When making oral presentations, it is helpful to use visual aids with “graphics” or “bullet points” to illustrate the main points of the discussion. As speakers organize their presentations, they should consider issues for which an illustration or list of bullet points would be appropriate. These visual aids can be made into transparencies that are projected onto a screen, and copies can be handed out to attendees so they can follow the main points of the discussion. Providing participants with copies of the important points of the discussion allows them to focus their attention on the details of the presentation, rather than on taking notes. Background materials, large maps, or charts can be placed around the meeting room for participants to view during breaks.

Issues to consider when using visual aids: While visual aids can be helpful to a meeting, they also can be detrimental if used incorrectly. Using visual aids that viewers cannot see or do not understand will confuse and frustrate the viewer, rather than help the viewer understand the presentation. When designing visual aids, consider whether or not someone who is unfamiliar with the topic would understand the graphic or chart. Like fact sheets, visual aids should not include technical jargon and complicated drawings. Test the effectiveness of a visual aid by asking a few people who are not involved with the project and do not have a technical background whether they understand it.

Sometimes speakers rely too heavily on visual aids to convey their message. Using many visual aids, and changing them quickly, can distract the viewer, with emphasis being placed on the changing visuals rather than on the content of each visual and accompanying narrative. Also distracting are visual aids that are too complicated, or in which type or drawings are so small that they are not readable from across the room. Each visual aid should serve a specific purpose in the presentation and answer specific questions. Be certain that a “pointer” is available to emphasize important elements in the presentation.

When using visual aids, the lights in the room usually are partially or completely turned off, which can be conducive to falling asleep, if many visuals are used. Therefore, intersperse visual aids throughout the meeting, using them to break up the meeting by providing the audience with a visual representation of the speaker’s presentation. When used in moderation, visual aids can be an effective tool for conveying important information to the community.

Meetings - Practice Sessions

All DTSC staff participating in the meeting must rehearse their presentations before the meeting occurs. These “dry run” sessions help to:

- ◆ Identify points in each person’s presentation that need further clarification or could be enhanced with visual aids;
- ◆ Improve the speaker’s confidence in his/her public speaking abilities; and,
- ◆ Identify weak spots in the meeting where more information is needed, as well as additional questions that might not have been considered.

The number of dry runs needed for each meeting will vary. Plan for one or two dry runs initially, leaving room on the calendar for more, if deemed necessary. All who will be making presentations at the meeting must attend the dry run. A good format for the dry run is:

- ◆ Each individual to make his/her presentation, or review the main points of the presentation;
- ◆ After each presentation, the rest of the group pose questions that have arisen during the presentation, and offer suggestions on how the presentation can be enhanced;
- ◆ Consider these sessions as team efforts, opportunities for the project staff to work together to develop the best possible format and presentation for the meeting;
- ◆ To have at least one person present at the dry run who is familiar with the site/facility but will not be making a presentation at the meeting (i.e., public participation staff, contractor);
- ◆ To have the person scheduled to facilitate the public meeting attend the dry run, to provide suggestions on continuity between speakers, and perspective on how the meeting flows.

Meetings - Facilitation

The facilitator's role is to manage the flow of communication during the meeting to ensure that all concerned citizens have the opportunity to formally present their comments. The facilitator monitors the communication dynamics of the meeting, and adjusts the meeting format, agenda or other variables as necessary to keep the meeting productive for all parties.

- ◆ Effective facilitation can be the key to a successful meeting.
- ◆ The facilitator will be chosen during the planning stage of the meeting. The Public Participation Specialist normally serves as the meeting facilitator, although the Public Participation Specialist Supervisor can be brought in for controversial meetings.
- ◆ The facilitator should be involved in setting the agenda and making sure that topics flow logically. Meeting agendas should: 1) be available for meeting participants; 2) include ample time for community members to ask questions and make comments; and, 3) allow for additional items to be added before the meeting is in progress.
- ◆ The facilitator is responsible for directing questions and comments from the audience to the appropriate panel member for response.
- ◆ The facilitator will make certain that, if a questions or comment cannot be addressed immediately, it is returned to later in the meeting, or is answered later.
- ◆ The facilitator can intervene with panel members who get “stuck”, defensive, or try to answer questions that they are not qualified to answer.
- ◆ A facilitator is particularly helpful for situations in which the community is hostile toward or does not trust DTSC or the responsible party.
- ◆ An impartial facilitator can help ensure that meeting participants focus on the issues being discussed.
- ◆ Facilitator techniques which can be useful:
 - Active listening
 - Acknowledging issues
 - Writing down issues and concerns
 - Recording issues/concerns, actions and questions on a flip chart
 - Willingness to stay and listen to comments and questions
 - Provide opportunity to meet again
 - Avoid over-controlling the meeting

Successful meeting facilitation will ensure that the meeting is a fair forum for all community members to express their views.

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION G
Public Hearings

Chapter 6, Section G

Public Hearings

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Public Participation Tasks and Techniques

Section G ♦ Public Hearings

Overview

The purpose of the public hearing is to solicit public comments on the draft permit, denial or closure plan. A public hearing is a formal process for the agency to receive comments from the community and the proponents of the draft permit or closure plan. In contrast to community meetings, a public hearing offers limited two-way communication between the public and DTSC.

Responsibilities

Public Hearings Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ♦ Identify need/objective/time frame. ♦ Identify location. ♦ Coordinate and develop agenda. ♦ Coordinate development of presentations for all participants. ♦ Review/approve presentations. ♦ Conduct dry runs. ♦ Approve graphics/handout text. 	<ul style="list-style-type: none"> ♦ Make meeting room arrangements. ♦ Arrange for interpreter/court reporter, if needed. ♦ Prepare meeting supplies (sign-in sheets, name tags, comment forms). 	<ul style="list-style-type: none"> ♦ Coordinate with PPS on meeting plans. ♦ Prepare presentations. ♦ Participate in dry runs. ♦ Coordinate with PPS on graphics. ♦ Participate in meeting. ♦ Develop graphics/handout text.

Required Public Hearings

Public hearings are required when:

- ♦ DTSC finds, on the basis of requests, a significant degree of public interest in a draft permit, denial or closure plan; (Title 22, CCR § 66271.11(a)(1))
- ♦ DTSC receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice; (Title 22, CCR § 66271.11(a)(3)(A))

- ◆ DTSC receives a request for a hearing on a closure plan within the formal public comment period; (Title 22, CCR § 66265.112(d)(5))
 - ◆ It is determined that a proposed project is of “high interest” to the community; or,
 - ◆ Whenever such a hearing might clarify one or more issues involved in the permit or closure plan determination for a “low interest” application.
-

Timing of Public Hearing

The California Code of Regulations requires that a minimum 30-day public notice be provided prior to a public hearing, and a public hearing cannot be scheduled until documents are placed in the repositories.

Hearing Officer

The hearing officer is the designated DTSC manager responsible for hearing and considering comments presented by the public. In addition, the hearing officer should make a brief presentation on the Department’s regulatory role at the facility and the proposed action brought forth for public review. The hearing officer can provide the additional facility information which must be presented at the hearing, or this can be delegated to other program staff.

NOTE: For controversial facilities, the Branch Chief serves as the hearing officer; and, for less controversial projects, the Permit Unit Chief can serve as the hearing officer.

Hearing Facilitator

The facilitator’s role is to manage the flow of communication during the hearing to ensure that all concerned citizens have the opportunity to formally present their comments. The facilitator monitors the communication dynamics of the meeting, and adjusts the meeting format, agenda or other variables as necessary to keep the meeting productive for all parties.

- ◆ The Public Participation Specialist normally serves as meeting facilitator, although the Public Participation Specialist Supervisor can be brought in for controversial hearings.
 - ◆ The hearing officer can facilitate the meeting when no other resources are available. Although it is advisable to separate these two functions whenever possible, especially at controversial hearings.
-

Logistics

Meeting arrangements and logistics are thoroughly discussed in this manual under the “Meeting Planning and Organization” subsection, as well as below. Also refer to the “Community Meeting/Hearing Checklist” (Exhibit 6-30).

<p>Location</p>	<p>Regulations require that the public hearing be scheduled at a location convenient to the population center nearest to the proposed facility.</p> <ul style="list-style-type: none"> ◆ Suitable hearing rooms should comfortably accommodate up to 200 people or more, depending on the anticipated attendance; ◆ Possible hearing locations should be identified in the Public Participation Plan or by consultation with the Public Participation Specialist; ◆ Many cities and towns have community centers with rooms suitable for hearings; ◆ For smaller audiences, use meeting rooms in libraries or government centers; and, ◆ ADA compliance. <p>Permit staff should work with staff in City Halls, libraries, school district offices, or Chambers of Commerce to locate available meeting facilities.</p>
<p>Date and Time</p>	<p>DTSC policy experience suggests that hearings be scheduled during weekday (Monday through Thursday) evenings, or at another date and time requested by the community. Holidays, important events, or other community meetings should be considered when selecting hearing dates. Refer to the “Meeting Date and Time” subsection. The date and time must be announced to the public in a public notice 30 days prior to the hearing date, so community members have sufficient notice.</p>
<p>Arrangements</p>	<p>The Project Manager or Public Participation Specialist should make hearing room arrangements as early as possible. Since a 30-day public notice is required, at a minimum, the room reservations must be made more than one month in advance of the hearing date.</p>
<p>Transcription</p>	<p>The Project Manager should arrange for the hearing transcription. DTSC policy requires that a written transcript or tape recording of all public hearings be made and placed in the information repository(ies) for public review. Transcription services are available through the DTSC statewide contract. See your Public Participation Specialist or contact the Headquarters Public Participation Office to access this contact. Transcription services should be arranged as soon as the hearing date and location are set.</p>
<p>Interpretation</p>	<p>If the site/facility is in an area where community members are non-English-speaking, consider having the meeting interpreted simultaneously into the language that the community speaks (e.g., Spanish, Vietnamese, American Sign Language). Refer to the “Interpreter Services” subsection.</p>
<p>Public Notification of Hearing</p>	<p>Prior to the hearing, the public, local officials, and other interested parties must be notified at least 30 days prior to the hearing of the hearing date, time, location, purpose, and where to call for additional information.</p>

To comply with State regulation for public notice of a public hearing:

- ◆ Use display advertisements in a local newspaper of general circulation;
- ◆ Paid radio announcements (refer to “Broadcast Public Notices”). Free public service announcements may be used to supplement paid radio announcements, but cannot be used as a substitute to meet the paid radio announcement; and,
- ◆ Distribute the public hearing notice to the project mailing list.
- ◆ Post on DTSC web site;
- ◆ E-mail notices.

Hearing Presentations

DTSC policy requires that a brief overview (not to exceed 20 minutes) be presented at the hearing. The Hearing Officer or project staff is responsible for developing and delivering the presentation.

Refer to Public Hearing Agenda samples in the appendix.

Hearing Facilitation

Public hearings should be managed by a moderator, whose responsibility is to ensure that all comments are taken for the public record.

- ◆ Establish speaker’s request form. The facilitator should ask those persons wishing to make comments at a hearing to complete a speaker request form and return it to the designated DTSC representative. This procedure can be eliminated when the attendance at a hearing is low.
- ◆ Establish time limits for commenters. The facilitator may choose to establish a set time limit for an individual to make comments. Typically, when a large number of people wish to comment, the time may be limited to five minutes or less per individual. However, the facilitator may give additional time to individuals representing large groups of people. Those wishing to make more detailed comments should be encouraged to submit their comments in writing.
- ◆ Interacting with commenters. Because comments become part of the public record, the facilitator should ask all commenters to give their names and addresses. If there is doubt about spelling, the facilitator should ask the commenters to spell names or street names. In cases where there may be litigation, it is common practice to further request that anyone legally representing any party as part of the permit process or decision identify that fact.

When giving the floor to a commenter, the facilitator should also note the person’s name, so that the facilitator can thank the commenter by name at the conclusion of the comment (e.g., “Thank you for those comments, Ms. Smith.”).

- ◆ All attendees who wish to receive a “response to comments” of the proposed project must sign the sign-in sheet at the public hearing.
- ◆ Since this is a meeting to hear the public’s comments, it is advisable that comments not be responded to during the hearing. Rather the comments should be heard and then seriously evaluated by the whole project team after the hearing concludes.

Hearing
Attendance

DTSC policy requires that the regulators who will be most involved with making the actual decision be present at the hearing so that they can weigh all information, including public comments, prior to reaching a final decision.

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION H
Response to Comments

Chapter 6, Section H

Response to Comments

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Public Participation Tasks and Techniques

Section H ♦ Response to Comments

Overview

The “Response to Comments”, also known as an “Analysis of Public Comment” or a “Responsiveness Summary”, summarizes comments received during a public comment period, and documents DTSC responses to those comments. Comments may be obtained from transcripts of public hearings, public meetings, e-mail comments, verbal comments, and/or letters written to DTSC. A “Response to Comments” must be prepared whenever DTSC seeks formal public input on a decision for the following projects:

- ♦ A permit application;
- ♦ A closure plan;
- ♦ A site remedial action plan; or,
- ♦ A permit modification, CEQA determination (EIR and negative declaration).

The response must:

- ♦ Written in a way that is understandable by the community.
- ♦ Specify which provisions, if any, of the draft permit or draft RAP have been changed in the final permit and the reasons for the change;
- ♦ Briefly describe and respond to all significant comments on the draft permit or draft RAP raised during the public comment period or during any hearing;

Summarizing public comments and agency responses serves to document public interest in an agency decision, and DTSC’s level of responsiveness to public concerns. The Response to Comments is placed in the site information repositories and also becomes part of the site or facility’s permanent administrative record (as well as part of the final RAP), which is usually located in the office of the lead agency.

Responsibilities

Response to Comments Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ◆ Advise Project Manager on organization & scope. ◆ Reviews response to comments for clarity & responsiveness. ◆ Responds to comments on PP Plan. ◆ Elevates community comments--refers them to DTSC management for consideration, if necessary. 		<ul style="list-style-type: none"> ◆ Writes draft response to comments. ◆ Refers comments to other appropriate DTSC staff to draft responses. ◆ Distributes draft for final review. ◆ Finalizes and distributes the response to comments and documents.

Timing

Site Mitigation

DTSC policy requires that the Response to Comments received during the public comment period be prepared before the final project decision, and distributed immediately, simultaneous with the announcement of the decision.

HWM

DTSC policy requires that the Response to Comments be prepared prior to the final permit/closure plan determination.

Techniques

Determine the format and assign responsibilities. These documents can become very long if the site or facility has generated a great deal of interest or has a long history of public involvement. The Project Manager generally writes the responses, since that person knows the site or permit best. Assistance in writing responses may be obtained from other technical staff and remedial contractors. Because the analysis of public comments may be written under a tight deadline (e.g., in preparation of the final RAP or permit determination), set up a schedule with the staff supplying responses that outlines when they will receive summarized comments, and deadlines for providing their responses.

DTSC will accept electronic comments submitted during a public comment period. Fact sheets, notices and other informational material should indicate the ability for the public to submit electronic comments, and provide an e-mail address for the DTSC contact.

Notification of Response

Establish a system for tracking comments. It is important to be certain that all comments are addressed. One possible system is to number comments as they are received by project staff, and refer to these numbers in all internal drafts of the

analysis. This step is highly recommended to provide verification that all comments were addressed, and allow easy identification of where they are addressed in the document.

Identify, categorize, and summarize comments. Comments should be identified in internal drafts by the number described above and the name of the person making the comment, if desired. Categorizing comments assists in developing a logical and easily referenced document. Comments may be categorized by the source of comments interested public, Responsible Party, State and local agencies); comment contents (i.e., transportation, economics, health). It is imperative that DTSC staff work closely with DTSC legal counsel to ensure that comments are characterized and responses phrased in such a way that DTSC cannot later be held accountable for having been either inconsistent or inaccurate.

California Health and Safety Code, states that the Response to Comments document must be made available to the public. However, it is DTSC policy that the document be sent to the following entities immediately after the project is approved.

- ◆ Those who submitted public comments;
- ◆ The mandatory mailing list;
- ◆ Those who specifically requested a copy of the Response to Comments; and,
- ◆ The information repository.

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION I
Information Repositories

Chapter 6, Section I Information Repositories

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Public Participation Tasks and Techniques

Section I ♦ Information Repositories

Overview

Information repositories are project files established in locations near the site or facility (usually in a public library or other local government office to the public). They contain key documents on site-related activities, and general information about DTSC’s hazardous waste permitting or site remediation program. Information repositories allow free and convenient public access to information on the nature of site problems, remedial response activities, and DTSC permitting activities. Information repositories contain key documents from the Administrative Record and project file.

Refer to Repository Contents below for a listing of documents usually found in a repository.

Responsibilities

Information Repositories Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> ♦ Establish location. ♦ Identify documents to be included. ♦ Monitor status during project. 	<ul style="list-style-type: none"> ♦ Maintain inventory of documents sent to each repository. ♦ Send documents. 	<ul style="list-style-type: none"> ♦ Identify documents to go to repository. ♦ Provide copies to library for inclusion.

Timing

Site Mitigation

The repositories must be established before RI field work begins or prior to initiating any remedial action. Repositories may be warranted for other site mitigation activities (including emergency removals or PEAs), consult with the Public Participation Specialist.

Repositories must be opened before the draft permit, corrective action, or “high” community interest closure plan is public noticed. For “high” community interest actions, repositories should be established earlier in the process, as determined by the Public Participation Specialist. For new RCRA application and permit renewals, if the project is potentially high interest as determined by the Public Participation Specialist, a public repository should be established containing the permit application and related documents when it is determined there is a need.

Techniques

At least one repository must be established for every remedial site, and for each permit application, corrective action, or “high” community interest closure plan.

A recommended approach for establishing a repository is described below.

- ◆ Determine a location early in the response or application process. One or more locations is determined during the community assessment. Typical locations for repositories include local public libraries, town halls, or public health offices.
 - ◆ Depending on the level of community concern, or the geographic location of the site or proposed facility relative to the surrounding communities, it may be desirable to establish more than one repository. For example, if a county government seat is located several miles away from a remedial action site, and county officials have expressed strong interest in the site, it may be advisable to establish two repositories: one in the community, closest to the site itself; and the other in the city or town where the county government seat is based. At least one repository location should be open during evening hours and on weekends, if at all possible.
 - ◆ Establish a contact person at the repository location. Materials sent to the repository should always be addressed to the contact person (refer to Exhibit 6-34, for an example of a transmittal letter).
 - ◆ Publicize the existence of the repository. Include repository location(s) and phone number(s) in all fact sheets and public notices. Other techniques for publicizing repositories include newsletters produced by local community organizations and church groups.
-

Repository Contents

Update the repository as information becomes available. Ensure that new information is sent to the repository in a timely manner. It is helpful to provide the contact person at the repository with an inventory list on which they may note the date, title, and date of receipt of new materials (refer to Exhibit 6-35, for a sample inventory list). In this way, both interested community members and DTSC staff may easily determine what information is available. Also, project staff should consider making arrangements for the information to be kept in a three-ring binder or file box, to ensure that project information does not become lost.

Select and deposit the materials to be included in the file. A cover letter should always accompany materials sent to the information repositories (refer to Exhibit 6-33, for an example of a transmittal letter). A project file should include:

- ◆ Copies of the draft permit or closure plan determination, Remedial Investigation/Feasibility Study workplan, the Public Participation Plan, draft Remedial Action Plan, and any other reports written for the site or facility;
 - ◆ Brochures, fact sheets, public notices, and any other information developed for the public regarding the permit, closure, or the site; and,
 - ◆ Any other reference material that may be relevant to the site or facility (e.g., journal articles discussing the potential risks associated with specific chemicals that have been found at the site or that are of concern at the proposed facility).
 - ◆ An index of documents for large complex projects.
-

Administrative Record

Site Mitigation

The Administrative Record has two purposes:

- ◆ The record provides an opportunity for the public to be involved in the site cleanup decision-making process; and,
- ◆ If the lead agency is challenged concerning the adequacy of a response action, judicial review of that selection will be limited to the Administrative Record.

The Administrative Record file shall consist of:

- ◆ The final Public Participation Plan;
- ◆ DTSC staff information in records of communication and comments used in the remedy decision-making process;
- ◆ The text of all comments submitted during the public comment period by the public, including the potential responsible party;
- ◆ The lead agency's consideration of all significant public comments; and,
- ◆ "Late comments" received after the close of the formal comment period, but before the Record of Decision (ROD) is signed.

Comments received after the ROD is signed should be placed in a post-decision document file. These comments may be added to the Administrative Record if the documents are relevant to the selection of the remedy that the ROD does not address.

The Administrative Record contains documents separate from materials in the information repository. Each Administrative Record file must be indexed to identify all of the documents that comprise the record file, including a list of those documents that do not have to be present in the file because of their voluminous nature (e.g., raw data), but which are considered part of the record. The index will

give the location of such documents. Documents in the Administrative Record file should be well organized so interested parties may easily find the documents they need.

The Administrative Record must be made available to the public, except in the case of emergency removal actions lasting less than 30 days, the record may be at the lead agency office.

HWM

DTSC shall base final permit decisions on the Administrative Record. According to Title 22, the Administrative Record for any final permit shall consist of the Administrative Record for the draft permit and:

- ◆ All comments received during the public comment period;
- ◆ Tape or transcript of any hearing;
- ◆ Any written materials submitted at a hearing;
- ◆ The response to comments;
- ◆ Other documents contained in the supporting file for the permit; and,
- ◆ The final permit.

Exhibit 6-35

Information Repository Inventory List

Date: _____

Repository Address: _____

Contact Person: _____ Phone #: _____

Project: _____

Project Manager: _____

Public Participation Specialist: _____

The following documents should be organized in binders that are easy to use and convenient for the repository host. For projects that involve a large number of documents, separate file boxes should be provided as a convenience to the repository host to ensure that the documents remain organized. **NOTE:** Not all documents are required to be placed in the repository.

Date of Deposit	Materials	Location in Repository
_____	Background information on the site/facility	_____
_____	Public participation plan (if developed)	_____
_____	Draft permit	_____
_____	Draft RAP	_____
_____	Draft RAW	_____
_____	PEA	_____
_____	Final RAP	_____
_____	Report prepared as part of the corrective action investigation, including the RFA, RFI and the CMS	_____
_____	Fact sheets prepared on the draft permit or corrective action plan:	
_____	Fact Sheet #1: _____	_____
_____	Fact Sheet #2: _____	_____
_____	Fact Sheet #3: _____	_____
_____	Notice of decision	_____
_____	Response to comments	_____
_____	Copies of relevant Federal & State statutes, regulations & guidance documents	_____
_____	A copy of the DTSC Cooperative Agreement	_____
_____	Documentation of site sampling results	_____
_____	Brochures, fact sheets, and other information about the specific site/facility (including past enforcement history)	_____
_____	Copies of news releases and clippings referring to the site	_____
_____	Any other relevant material (e.g. published studies on the potential risks associated with specific chemicals that have been found stored at the site)	_____