



Linda S. Adams  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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Arnold Schwarzenegger  
Governor

<b>DOCKET</b> <b>06-AFC-6</b>
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November 28, 2006

Mr. Lorne C. Prescott, Project Manager  
California Energy Commission  
1516 9<sup>th</sup> Street, MS-15  
Sacramento, California 95814

Dear Mr. Prescott:

Thank you for the opportunity to comment on the Application for the Certification (AFC) document (#06-AFC-6) for the California Energy Commission Eastshore Energy Center. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8.

The Application for the Certification indicates that an existing Site building, foundations and paved surfaces will be demolished as part of the activity. However, it is unknown when the building or the building foundations were built. Please be aware that structures that were built before 1975 could potentially contain lead based paints and asbestos. DTSC recommends that you include a detailed description of each building's past use in your California Environmental Quality Act (CEQA) document to determine whether hazardous materials may have been released at the site.

Based on the assessment of adjacent land use (sensitive land uses such as schools, day-care facilities) DTSC recommends that sampling be conducted prior to development to ensure that no contamination exists which could affect nearby properties or impact long-term use of the property. The Application for the Certification (AFC) document does not contain any soil or groundwater sampling data. It is not known if adequate soil and groundwater sampling was done in order to characterize the nature and extent of chemicals in soil and groundwater at the site. In addition there is no indication that other contaminants such as lead from lead-based paint have been evaluated at the site. If hazardous substances have been released at the site, they will need to be addressed as part of this project. The remediation activities would then need to be addressed in the CEQA compliance document.

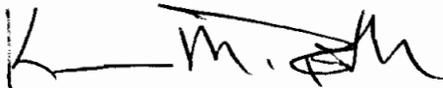
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For example, if the remediation activities include the need for soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident at the Site.

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Please contact Ms. Barnali Barua at (510) 540-3757 if you have any questions or would like to schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,



Karen M. Toth, P.E., Unit Chief  
Northern California - Coastal Cleanup  
Operations Branch

Enclosure

cc: without enclosure

Governors Office of Planning and Research  
State Clearinghouse  
1400 Tenth Street  
P.O. Box 3044  
Sacramento, California 95812-3044

Guenther W. Moskat  
CEQA Tracking Center  
Department of Toxic Substances Control  
1001 "I" Street, 22<sup>nd</sup> Floor  
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Sacramento, California 95812-0806



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



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## **The Voluntary Cleanup Program**

The California Environmental Protection Agency's Department of Toxic Substances Control (DTSC) has introduced a streamlined program to protect human health, cleanup the environment and get property back to productive use. Corporations, real estate developers, local and state agencies entering into Voluntary Cleanup Program agreements will be able to restore properties quickly and efficiently, rather than having their projects compete for DTSC's limited resources with other low-priority hazardous waste sites. This fact sheet describes how the Voluntary Cleanup Program works.

Prior to initiation of the Voluntary Cleanup Program, project proponents had few options for DTSC involvement in cleaning up low-risk sites. DTSC's statutory mandate is to identify, prioritize, manage and cleanup sites where a release of hazardous substances has occurred. For years, the mandate meant that, if the site presented grave threat to public health or the environment, then it was listed on the State Superfund list and the parties responsible conducted the cleanup under an enforcement order, or DTSC used state funds to do so. Because of staff resource limitations, DTSC was unable to provide oversight at sites which posed lesser risk or had lower priority.

DTSC long ago recognized that no one's interests are served by leaving sites contaminated and unusable. The Voluntary Cleanup Program allows motivated parties who are able to fund the cleanup -- and DTSC's oversight -- to move ahead at their own speed to investigate and remediate their sites. DTSC has found that working cooperatively with willing and able project proponents is a more efficient and cost-effective approach to site investigation and cleanup. There are four steps to this process:

- / Eligibility and Application
- / Negotiating the Agreement
- / Site Activities
- / Certification and Property Restoration

The rest of this fact sheet describes those steps and gives DTSC contacts.

# The Voluntary Cleanup Program

## ***Step 1: Eligibility and Application***

Most sites are eligible. The main exclusions are if the site is listed as a Federal or State Superfund site, is a military facility, or if it falls outside of DTSC's jurisdiction, as in the case where a site contains only leaking underground fuel tanks. Another possible limitation is if another agency currently has oversight, e.g., a county (for underground storage tanks). The current oversight agency must consent to transfer the cleanup responsibilities to DTSC before the proponent can enter into a Voluntary Cleanup Program agreement. Additionally, DTSC can enter into an agreement to work on a specified element of a cleanup (risk assessment or public participation, for example), if the primary oversight agency gives its consent. The standard application is attached to this fact sheet.

If neither of these exclusions apply, the proponent submits an application to DTSC, providing details about site conditions, proposed land use and potential community concerns. No fee is required to apply for the Voluntary Cleanup Program.

## ***Step 2: Negotiating the Agreement***

Once DTSC accepts the application, the proponent meets with experienced DTSC professionals to negotiate the agreement. The agreement can range from services for an initial site assessment, to oversight and certification of a full site cleanup, based on the proponent's financial and scheduling objectives.

The Voluntary Cleanup Program agreement specifies the estimated DTSC costs, scheduling for the project, and DTSC services to be provided. Because every project must meet the same legal and technical cleanup requirements as do State Superfund sites, and because DTSC staff provide oversight, the proponent is assured that the project will be completed in an environmentally sound manner.

In the agreement, DTSC retains its authority to take enforcement action if, during the investigation or cleanup, it determines that the site presents a serious health threat, and proper and timely action is not otherwise being taken. The agreement also allows the project proponent to terminate the Voluntary Cleanup Program agreement with 30 days written notice if they are not satisfied that it is meeting their needs.

## ***Step 3: Site Activities***

Prior to beginning any work, the proponent must have: signed the Voluntary Cleanup Program agreement; made the advance payment; and committed to paying all project costs, including those associated with DTSC's oversight. The project manager will track the project to make sure that DTSC is on schedule and within budget. DTSC will bill its costs quarterly so that large, unexpected balances will not occur.

Once the proponent and DTSC have entered into a Voluntary Cleanup Program agreement, initial site assessment, site investigation or cleanup activities may begin. The proponent will find that DTSC's staff includes experts in every vital area. The assigned project manager is either a highly-qualified Hazardous Substances Scientist or Hazardous Substances Engineer. That project manager has the support of well-trained DTSC toxicologists, geologists, industrial hygienists and specialists in public involvement.

The project manager may call on any of these specialists to join the team, providing guidance, review, comment and, as necessary, approval of individual documents and other work products. That team will also coordinate with other agencies, as appropriate, and will offer assistance in complying with other laws, such as the Resource Conservation and Recovery Act.

#### ***Step 4: Certification and Property Restoration***

When remediation is complete, DTSC will issue either a site certification of completion or a "No Further Action" letter, depending on the project circumstances. This means "The Site" is now property that is ready for productive economic use.

**To learn more about the Voluntary Cleanup Program, contact the DTSC representative in the Regional office nearest you:**

**Southern California**

Tina P. Diaz  
1011 North Grandview Avenue  
Glendale, California 91201  
(818) 551-2862

**Central California**

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*(Revised 10/18/02)*