



FACT SHEET



MEET-AND-CONFER PROCESS AND COST RECOVERY FOR CORRECTIVE ACTION PROCESS AND OVERSIGHT FOR FACILITIES WITH EXISTING CORRECTIVE ACTION CONSENT AGREEMENTS

The California Environmental Protection Agency (Cal/ EPA), Department of Toxic Substances Control (DTSC)

BACKGROUND:

Assembly Bill (AB) 1651 (Chap. 576, Statutes of 1996) added provisions regarding oversight costs to the Health and Safety Code (HSC). This Fact Sheet summarizes the cost recovery process established by AB 1651 for hazardous waste management facilities that must undertake corrective action to clean up one or more releases of hazardous waste. For the specific legislative language, see the enclosed copy of Chapter 6.66.

STATUS OF EXISTING CORRECTIVE ACTION PROJECTS:

DTSC will not re-negotiate its Corrective Action Consent Agreement with a facility that already has an agreement in place, but will make available a meet-and-confer process to facilitate communication between DTSC and the facility. The DTSC Project Manager will confirm that the Project Team members (e.g., geologists, public participation specialists, etc.) are available to provide project support.

STEPS IN THE PROCESS:

Meet-and-Confer: The Project Manager will call the facility to set up a meet-and-confer session. The Project Manager will prepare a transmittal letter confirming the date, time and location of the meet-and-confer session, and provide the facility with a draft of the current project tasks and status. This package will be sent to the facility at least five (5) days prior to the meet-and-confer session. During the meet-and-confer session, the scope of

work, prioritization of tasks, scheduling, procedures for resolving disputes regarding technical issues, and other elements of the project will be discussed.

Confirm Project Schedule: In consultation with the Project Team members, the Project Manager will review the project schedule for feasibility and discuss that schedule with the facility.

Implement Project: The Project Manager will continue to implement the project based on the agreed-upon scope of work and pursuant to the Corrective Action Consent Agreement and the understandings laid out in the meet-and-confer session.

Followup Meetings: The Project Manager, facility representative(s), and, as appropriate, Project Team members, will meet at agreed-upon intervals to review the project, and discuss and resolve any issues that may have arisen.

Subsequent Phases: For subsequent phases of Corrective Action needed at a facility (e.g., any interim measures that are needed to prevent exposures or immediately control a release), a process similar to that described above will be followed.

ADDITIONAL INFORMATION:

DTSC Personnel Changes: Because of DTSC staff changes, it may be necessary to change Project Managers during the course of a Corrective Action project. People leave DTSC, change jobs, and receive promotions without regard for the status of Permitting projects. If it becomes necessary to reassign a project, every effort will be made to provide project continuity. Whenever possible, the outgoing Project Manager will work with the new Project Manager to get that person conversant with the project. Additionally, the Supervisor for the original Project Manager will help clarify project status. This will help maintain the planned schedule for the project, and assure consistency with the original agreements between DTSC and the facility. Time spent on internal DTSC coordination to transition a project will be billed to a general DTSC Permitting function, rather than to the facility.

SUMMARY OF COST RECOVERY POLICIES:

In General: DTSC is required to recover all identifiable State costs related to the discovery, evaluation and cleanup of hazardous substance and hazardous waste release sites and facilities. In addition to direct costs incurred by DTSC contractors and DTSC staff who are working on site-specific activities, DTSC also bills its indirect costs associated with direct staff costs. Such indirect costs are applied only to DTSC direct labor costs and not to DTSC contractor costs or DTSC staff travel costs.

Program Specific Indirect Rates: DTSC calculates separate indirect cost rates for DTSC overhead associated with each of its major programs. Because of the ratio of direct to indirect costs varies among DTSC's various programs, the indirect cost rates associated with those programs will also vary. These indirect cost rates are updated every six months.

AB 1651: Effective January 1, 1997, several

changes to the Health and Safety Code were made by Assembly Bill 1651 (AB 1651) which affected our billing process. AB 1651 eliminated the 10 percent administrative charge, and billings after January 1, 1997 will no longer reflect this charge unless it is mandated by a pre-existing agreement. DTSC will also waive previously billed 10 percent administrative charges unless such charges were specified in an agreement or were charged in a period which has been settled.

AB 1651 imposes interest, applied from the date of demand at the same rate of return earned on investment in the Surplus Money Investment Fund, on DTSC billings issued after January 1, 1997. It is DTSC's policy to waive the interest charges if the payment is received within 60 days (or other time period specified by a pre-existing agreement) of the date of the invoice. The interest rate will be specified in the billing letter.

Quarterly Billing Statements: In general, DTSC submits bills to persons liable for costs on a quarterly basis. These billings, together with a summary of the work performed by DTSC, identify the names of staff and the number of hours staff directly charged to each site for the billing period.

Time Sheets: DTSC staff keep tract of their work activities on a daily basis and submit monthly time sheets accounting for all of their time. In addition, DTSC staff keep daily logs to further substantiate site-specific work activities. Time sheets and daily logs are available for review upon request.

Communication Concerning Project Costs: DTSC's policy is to meet with persons liable for costs whenever necessary and appropriate to discuss project work plans, time lines, budget and cost estimates, outputs, and related issues. Such discussions are initiated at the outset of each new project and at the beginning of each new major phase of activity for ongoing projects. DTSC's projected budgets are comprehensive and include estimates of all DTSC charges which include staff hours which are anticipated to be directly charged

to the project and estimated indirect charges. The estimates are updated as necessary, based on emerging information and project-specific developments.

Resolution of Disputed Bills: If you have a dispute regarding the charges or related services appearing on the invoice you received from DTSC, you may file a formal dispute by notifying DTSC in writing within 45 days from the date of the invoice. The notice must state the reasons for the dispute and should be addressed to:

Special Assistant for Cost Recovery and
Reimbursement Policy
Department of Toxic Substances Control
Post Office Box 806
Sacramento, California 59812-0806

If you are disputing an invoice for recovery of site cleanup costs, a copy of the notice of dispute letter should also be sent to the Regional Branch Chief. If you are disputing only a portion of the costs included in the invoice, you should pay for those costs that are not being disputed. Filing a formal dispute will not stay the imposition of the interest charges that were discussed previously in the AB 1651 section of this policy summary. Payments for the undisputed costs received within 60 days of the date of the invoice will waive the interest related to those costs.

