

DTSC Official Policy Cover Page

**DTSC POLICY FOR  
CONDUCTING INSPECTIONS**

**DTSC-OP-0005**

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All Staff

Enforcement and Emergency Response Program

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Target Audience

Issuing Unit

Gale Filter, Deputy Director

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Name and Title of Approving Authority

Original Signed by Gale Filter

January 30, 2009

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Signature

Date Signed

Health and Safety Code, Division 20, Chapter 6.5 and its implementing regulations

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Statutory Reference

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## **I. PURPOSE**

The Department of Toxic Substances Control (DTSC) regulates the generation, transportation, treatment, storage, and disposal of hazardous wastes. DTSC monitors compliance with State and federal hazardous waste requirements by conducting inspections. This document sets forth DTSC's policy and procedure for conducting inspections and preparing inspection reports in an appropriate, consistent, and effective manner.

DTSC facilitates compliance with State and federal hazardous waste laws by developing inspection guidance documents and policies, inspection checklists, fact sheets, regulatory interpretations, and providing information about California Compliance School<sup>1</sup> to regulated entities and other interested parties. Inspectors also discuss compliance requirements with regulated entities during the inspection process. The objective of DTSC's compliance assistance efforts is to ensure that regulated entities have access to information needed to meet regulatory requirements and to address compliance issues in the shortest time possible.

## **II. BACKGROUND**

This policy supersedes EO-02-006-PP.

## **III. STATUTORY AUTHORITY**

California Health and Safety Code section 25185 provides DTSC's general authority to conduct inspections, conduct sampling activities, inspect and copy documents, and take photographs at sites or establishments where hazardous wastes are stored, handled, processed, treated, or disposed. Other statutes authorizing more specific authorities include, without limitation, Health and Safety code sections 25159.21 and 25169.7.

## **IV. POLICY**

It is the policy of DTSC that its inspectors will conduct inspections and write inspection reports in accordance with this document.

The lead inspector and his or her supervisor will determine the appropriate number of inspectors needed per inspection based on factors such as safety, complexity, need for sampling, or other site-specific circumstances.

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<sup>1</sup> The California Compliance School is a partnership between DTSC and the Community College System to teach generators and on-site treatment facilities how to comply with basic hazardous waste management requirements. It is operated by Bakersfield College's Environmental Technology Institute.

The inspector is responsible for identifying and documenting all violations at the facility during the inspection. It is important to document all violations observed, including those corrected at the time of the inspection, and to support future compliance and enforcement actions. If violations are serious, DTSC will initiate appropriate enforcement action in accordance with DTSC's Enforcement Response Policy, DTSC-OP-0006.

To the extent possible, facilities that are issued a Summary of Violations (SOV) shall be re-inspected to verify compliance. Performance Managers shall determine and prioritize which facilities will be re-inspected by considering factors such as, but not limited to, recalcitrance, compliance history, and the number and nature of violations cited.

## **V. RELATIONSHIP TO OTHER POLICIES**

Environmental monitoring inspections such as comprehensive groundwater monitoring evaluations and operation and maintenance inspections are addressed in the: RCRA Comprehensive Ground Water Monitoring Evaluation Course Handbook, prepared for US EPA Region 6 and Office of Waste Programs and Enforcement, Washington, DC. (Undated.); and RCRA Operation and Maintenance Inspection (O&M) Addendum to RCRA Comprehensive Ground-Water Monitoring Evaluation Course Handbook, July 1990. Complaint investigations are addressed in the Hazardous Waste Administrative Complaints Policy, DTSC-OP-0003.

## **VI. TYPES OF INSPECTIONS**

### **A. Compliance Evaluation Inspection (CEI)**

This type of inspection is rigorous and checks all aspects of a facility's hazardous waste operations for compliance with all applicable regulatory requirements.

### **B. Follow-up Inspection (FUI)**

This is a re-inspection to verify compliance with a previously issued SOV.

### **C. Financial Records Review (FRR)**

This is an in-office review of financial responsibility documents for permitted facilities.

### **D. Facility Self-Disclosure (FSD)**

This inspection type is in response to a self-disclosure of violations by a regulated entity.

### **E. Groundwater Monitoring Evaluation (GME)**

This inspection type is conducted in concert with a geologist and involves evaluation of groundwater issues. For this type of inspection, please contact and coordinate with the Geology and Remediation Engineering Branch.

**F. Non-Financial Records Review (NRR)**

Review of various records to determine the potential for a violation on the part of a regulated entity.

**G. Operation and Maintenance (OAM)**

This inspection type is similar in complexity to a GME except that it focuses on the facility operations and maintenance. For this type of inspection, please contact and coordinate with the Geology and Remediation Engineering Branch.

**VII. PROCEDURES**

The following discussion applies primarily to CEIs. Specific aspects of the following discussion may also apply to other inspection types.

**A. Preparation for an Inspection**

With few exceptions, inspectors shall not notify facilities of planned inspections. Any advance notification shall be approved by the Supervisor or Team Leader. Adequate preparation prior to an inspection is essential to conducting a safe, effective, and efficient inspection. The inspector shall research available resources to become familiar with the facility's hazardous waste activities, regulatory status, the regulatory standards the facility shall meet, and health and safety requirements. As appropriate, the following areas shall be addressed by the inspector prior to conducting an inspection.

1. File Review - When an inspection is assigned, the inspector shall review DTSC's files and the Inspections, Complaints and Enforcement (ICE), or successor database to determine the enforcement and authorization status of the operator.

For hazardous waste transporter inspections, the inspector shall determine the transporter's registration status by referencing the Hazardous Waste Tracking System (HWTS), a current transporter list, and whether the transporter has notified as a consolidated transporter and submitted to DTSC a transporter quarterly report for consolidated manifest activities. A current list of registered transporters is available on the Internet at <http://www.dtsc.ca.gov/database/Transporters/Trans000.cfm> and consolidated transporter quarterly report data is available at <http://tqr.dtsc.ca.gov>.

The inspector shall review any pending or past enforcement actions taken, and, at a minimum, the most recent inspection report and SOO, SOV, or Notice of Violation, if applicable. Any unresolved issues or violations noted in the previous inspection report shall be investigated. Copies of applicable authorization and enforcement documents shall be obtained for reference during the inspection.

2. Hazardous Waste Tracking System Review - As applicable, the inspector shall review facility reports such as "EPA ID Profile" and manifesting reports for inconsistencies, errors, and basic information using the HWTS database prior to conducting an inspection. The inspector shall verify the accuracy of the profile information obtained from HWTS during the inspection, and review the notice on limitations of data obtained from HWTS. The inspector shall also evaluate HWTS special reports which may include: possible 10-day transfer facility exemption exceedances, use of unregistered transporters, and unauthorized acceptance of waste codes.
3. Regulatory Status - The inspector shall review the authorization status of the facility (e.g., variance, permit, registered transporter). The type of facility establishes the regulatory standards that shall be met and determines the criteria used for the inspection.
4. Coordination with Permitting Teams - If applicable, the inspector shall contact the appropriate DTSC Permits Project Manager to discuss the status of the facility's authorization (permit, permit special conditions, permit modifications, variance, closure activities, etc.). The inspector shall request that the Project Manager accompany him or her on the inspection.
5. Coordination of Financial Responsibility Review - A financial responsibility review shall be conducted for facilities required to provide financial assurance pursuant to California Code of Regulations, title 22, sections 66264.140, et seq., 66265.140, et seq., or 67800.5. The inspector shall complete a Financial Responsibility Review Request Form (T:\FORMS\EERP Documents), which shall include providing a copy of the most current closure cost estimate, and coordinate the request with the appropriate financial responsibility analyst. The inspector shall submit the financial responsibility review request, with the appropriate documentation obtained from the facility, upon their return from the facility inspection.
6. Coordination within EERP - The inspector shall consult within EERP to determine if there are any pending enforcement actions or unresolved issues associated with the facility. This is typically done by sending an e-

mail to the respective entities advising the Performance Managers and/or Supervisors of the upcoming inspection.

7. Coordination within DTSC – The inspector shall consult with other programs within DTSC, as appropriate. Based on the file review completed as part of preparation for the inspection, the involvement of other programs, such as Site Cleanup, within DTSC may be identified.
8. Coordination with Other Agencies - The Certified Unified Program Agency (CUPA) with jurisdiction to administer elements of the hazardous waste program shall be contacted prior to the inspection to obtain information about any recent inspections or enforcement actions unless Performance Manager directs otherwise. The local agency inspector may be invited to accompany DTSC during the inspection, but the inspection shall not be postponed if the local agency inspector is unable to attend, unless postponement is approved by the Performance Manager. In addition, other regulatory agencies such as the Regional Water Quality Control Board (RWQCB) may be contacted, as appropriate. All outside agencies contacted shall be advised that DTSC does all inspections unannounced.
9. Health and Safety Plan - The inspector is responsible for preparing the HARP form for all inspections. The HARP shall be based on information obtained from previous inspection reports and/or research of the facility's business activities. The HARP form shall be submitted for approval to DTSC's Regional Industrial Hygienist and the inspector's supervisor at least two days prior to the planned inspection date.
10. Equipment and Supplies - The inspector shall gather all necessary equipment and reference materials needed for the inspection including, but not limited to, personal protective equipment, DTSC issued Environmental Enforcement photo identification card (credentials), camera, film, sampling supplies, statutes, regulations, copies of the permit and operation plan (if appropriate), checklists, forms, and compliance assistance information. The inspector shall verify that the camera or data card, as appropriate, is functioning prior to leaving the office.
11. Pre-Sampling Activities - The inspector shall coordinate with DTSC's Environmental Chemistry Laboratory (ECL) if the inspection will include sampling. An Authorization Request Form (ARF) and Sample Analysis Request (SAR) (T:\FORMS\ECL) shall be completed before the inspection begins.

## **B. Procedures at the Facility**

### **1. Opening Conference**

- a. Arrival - Upon arrival at the facility or site, the inspector shall identify himself/herself, present his or her credentials, and ask to meet with the appropriate person (e.g., the facility manager or environmental coordinator), hereafter referred to as the “operator.”
- b. Consent The inspector shall inform the operator of the purpose of visit (e.g., Treatment, Storage, Disposal Facility (TSDF) inspection, generator inspection, E-Waste inspection, etc.) The inspector shall explain to the operator that consent to conduct an inspection covers inspecting hazardous waste handling areas, taking photographs, conducting sampling activities, interviewing staff, and reviewing and copying documents. The inspector shall request, obtain, and document consent to conduct the inspection from the operator before beginning the inspection.

If consent to conduct an inspection is granted, the inspector shall specifically note this fact in the inspection report. The notation shall include the date and time at which consent was granted, and name and title or position of the person consenting to the inspection. The inspector shall obtain consent each day and each time he/she returns to the site (e.g., after lunch).

If consent is denied or withdrawn at any time, the inspector shall leave the facility, notify his or her supervisor, and obtain an inspection warrant. The inspector shall not make any remarks about getting a warrant, or try to intimidate the facility representative, but shall calmly leave the facility. The inspector may opt to tell the facility of our intent to obtain an inspection warrant but in doing so shall not attempt to intimidate the facility representative. If consent to conduct an inspection is denied or withdrawn, the inspector shall specifically note this fact in the inspection report. The notation shall include the date and time at which consent was denied or withdrawn, and name and title or position of the person denying or withdrawing consent to conduct the inspection and any reasons given for denying or withdrawing consent.

There are specific procedures and criteria that shall be followed to obtain an inspection warrant (T:\FORMS\ENF). The OLA or the District Attorney’s Office will assist as necessary with the preparation of warrants. If the inspector expects consent to be refused, he or she may make advance preparations for obtaining an Inspection Warrant.

An inspection warrant requires 24 hours notice to the operator, unless the notice period is waived by a court.

- c. Documents - If applicable, at the beginning of the inspection, the inspector shall supply the operator with a list of documents (e.g., manifests, inspection logs, training records, contingency plan, etc.) that need to be made available for review following the walkthrough portion of the inspection. The inspector shall request a copy of the current site map prior to the walkthrough and utilize it to guide the walkthrough.

The inspector shall not discuss any suspected violations resulting from pre-inspection preparation until those suspected violations have been investigated during the inspection process.

The inspector shall refer the operator to DTSC's website at <http://www.dtsc.ca.gov/PublicationsForms/index.cfm> to obtain copies of the current Inspection Guidance Checklist and appropriate inspection checklists as an aid for future self-inspection.

- d. Verification of Operations - The inspector shall discuss with the operator hazardous waste activities, facility operations, and information obtained from HWTS to determine if there are discrepancies between information provided by the operator and DTSC or other agency files or databases. If there are discrepancies between information obtained from HWTS and information provided by the operator, the inspector shall refer the operator to DTSC's Generator Information Services Section for correction of those discrepancies. The inspector shall note all discrepancies in the inspection report and notify DTSC Permitting Teams (for permitted facilities) or other agencies of those discrepancies, as appropriate.
- e. Health and Safety - Prior to conducting a walkthrough of the facility, the inspector shall discuss with the operator the facility's health and safety requirements. The inspector shall comply with all reasonable security, safety, and precautionary measures specified by the operator. The inspector shall adhere to the approved HARP form for the site and shall use the appropriate level of personal protective equipment (PPE).
- f. Taking Photographs - If the operator refuses to allow the inspector to take photographs, the inspector may end the inspection and obtain an inspection warrant as described above. Under no circumstances shall the inspector surrender his or her camera or film to the operator.

If the inspector believes that the inspection is likely to result in an enforcement action, or DTSC's files do not already contain adequate photographs of the facility, the inspector shall take several photographs of the facility showing its layout, condition, and the location of all hazardous waste handling areas. If using a camera with dating capability, the inspector shall verify that the camera is set to the correct date prior to taking photographs. The inspection report, which is normally sent to the operator within 60 days of the inspection, shall contain copies of all photographs taken during the inspection. Photographs can be sent attached to an addendum report (T:\FORMS\EERP Documents) if they are not ready at the time the inspection report is sent to the facility.

Further guidance on digital photographs can be found at the Cal/EPA website [www.calepa.ca.gov/Enforcement/Policy](http://www.calepa.ca.gov/Enforcement/Policy).

## 2. Walkthrough

- a. General - The inspector shall determine in advance the order in which hazardous waste units, activities, or processes will be inspected. During a CEI, the walkthrough shall include regulated hazardous waste units, and any other areas of concern. The inspector may reference the Inspection Guidance Checklist and appropriate inspection checklists during an inspection. The inspector shall investigate whether violations identified in any previous inspection reports and/or enforcement actions have been corrected.

When there are several units performing the same type of hazardous waste activity and the facility has a good compliance history, the inspector may inspect a representative number of those units; however, at least one of each type of unit shall be inspected. The visual inspection of each unit or area shall include an assessment of potential major problems, such as: releases or leaking containment systems; improper storage of incompatible wastes; container management, such as labeling deficiencies, damaged, leaking or open containers; tank management such as labeling, potential visual shell integrity deficiencies, spillage; safety equipment deficiencies or changes from past operating conditions.

Based on the observations made during the walkthrough, the inspector shall determine which documents to concentrate on, such as weekly inspection reports, manifests, tank assessments, or training records. For example, if numerous container violations are observed, it is logical to suspect that container inspections and training may be inadequate.

The inspector shall identify waste minimization opportunities such as housekeeping, segregating waste streams, or recycling that could reduce hazardous waste generation. The inspector shall refer the operator to DTSC's website at <http://www.dtsc.ca.gov/PollutionPrevention/index.cfm> for hazardous waste source reduction information and compliance assistance information (fact sheets, guides, checklists, etc.). The inspector may also refer the operator to the regional Regulatory Assistance Officer (formerly known as the Duty Officer or Public and Business Liaison) or to the Office of Pollution Prevention and Green Technology for further assistance.

- b. Proving Violations - The inspector shall identify all violations and prove them by documenting observations and discussions, obtaining copies of records, obtaining samples, and taking photographs.

To ascertain whether a violation has been committed, the inspector needs to analyze the basic elements of each statute or regulation that may have been violated. Each of the individual elements shall be supported by evidence to establish that a violation has occurred. Observations by the inspector, admissions or statements by the operator, photographs of the facility or site, and samples taken by the inspector can be used as evidence to prove the elements of the violation.

Each piece of evidence collected by the inspector will contribute to proving the existence or nonexistence of a violation. This is the means by which any alleged violation is established or disapproved.

Statements made by the operator and facility employees shall be documented in the inspection report if they are relevant to potential violations. As violations are observed, the inspector shall discuss with the operator the regulatory requirements and what is required to correct the violation(s). The inspector shall request copies of all documents that support alleged violations. As documents are obtained by the inspector, the inspector shall label the document with the date and name of the individual who provided the document. The inspector shall note any efforts made by the operator to comply.

At a business where parties may be difficult to locate later, the inspector shall attempt to obtain identifying information (name, physical description of the person, driver's license number, or date of birth) for any witness or person responsible for any violation.

- c. Sampling to Document Violations - Sampling results may be the best evidence that a substance is a hazardous waste; however, sampling

is time-consuming and costly for DTSC. It is important to balance the cost versus the benefit in deciding whether to sample. If the inspector determines that sampling is necessary, field replicate samples shall be offered and provided to the operator upon request. The ECL User's Manual ([www.dtsc.ca.gov/AssessingRisk/ECL/Index.cfm](http://www.dtsc.ca.gov/AssessingRisk/ECL/Index.cfm)) shall be referenced for sampling guidelines and information on the efficient use of laboratory services.

The inspector shall use appropriate sampling methods. For any sampling activity, the inspector shall, to the extent possible, coordinate with ECL and the inspector's supervisor for technical support and to ensure adequate laboratory support in advance of the sampling event. The inspector shall consult with TWDB to determine whether there is a need to have industrial hygiene support when conducting sampling.

If sampling cannot be performed immediately due to lack of personnel or equipment, and if all criteria laid out in the policy "Implementing Quarantine Authority" (DTSC-OP-0008) are met, the inspector may quarantine hazardous wastes or materials reasonably suspected to be hazardous wastes. If the criteria for quarantine authority do not exist, the inspector may request the facility operator to hold materials for 30 days as per California Code of Regulations, section 66272.1(e). This request shall be in writing (T:\FORMS\EERP Documents).

The primary reasons for sampling are to determine whether a waste is a hazardous waste and to determine whether there has been a release into the environment. Training, experience, and good judgment on the part of the inspector will help to determine when and where to sample. The following questions may also help determine when sampling is appropriate.

- Is there sufficient evidence that a waste is hazardous without sampling to prove that the waste is hazardous? If yes, don't sample.
- Will sampling help prove unlawful activity or a serious violation? If yes, sample.
- Is the potential violation one that threatens public health or the environment? If yes, sample.
- Is the potential violation a minor violation? If yes, don't sample.

3. Document Review - The level of document review depends on the type of inspection and the site's compliance status. For CEIs at permitted facilities, a significant portion of all hazardous waste documents and operating records shall be reviewed. As appropriate, a representative

number of documents such as manifests, manifest discrepancy reports, bills of lading, land disposal restrictions (LDR) notifications, exception reports, import/export reports, contingency plan, training plan and records, incident reports, waste analysis plan and records, operation plan, inspection records, tiered permitting applications and authorization letter, annual/biennial reports, hazardous waste source reduction plans, hazardous waste source reduction plans, closure cost estimates and updates, permit (Part A and B), tank and/or containment assessments, variances, recycling records, or any other records relating to the management of hazardous waste shall be reviewed.

The inspector shall summarize the findings for all documents reviewed, and provide an explanation for any documents that were not reviewed (not applicable, not available, etc.).

The inspector shall determine the number of documents to review using his or her judgment considering the size and complexity of the facility. The facility's hazardous waste processes shall be examined and compared to the approved operation plan. Documents pertaining to the management of hazardous waste shall be available on-site.

Document review for facilities operating under standardized permit shall be approached differently. A thorough review is necessary because many of the documents for a standardized permit facility are not approved by DTSC prior to commencement of operations.

If an interim status facility is being inspected, all documents shall be thoroughly reviewed because those documents are not approved by DTSC prior to commencement of operations. If an interim status facility has changed its process or operations, the operation plan shall be evaluated to determine whether it was appropriately updated to reflect the changes.

For facilities with good compliance history or low risk to public health or the environment, a limited sample of each type of document may be reviewed when conducting a full CEI. Again, the inspector shall exercise his or her judgment and experience in determining the number of records to be reviewed. The number of records reviewed as a percentage of the total records available will be highly dependent on the size and complexity of the facility.

At a minimum, the reduced document review for those facilities with a good compliance history would include the following level of record review, if appropriate for the type of facility:

- Operating Record - The inspector shall follow at least one specific major (largest by volume) waste stream that was received or managed and determine its final disposition based upon the information in the operating record. The inspector shall also confirm that the various annual and/or biennial reports have been submitted as required by regulation including all required groundwater monitoring reports.
- Waste Analysis Records required by the Waste Analysis Plan (WAP) The inspector shall select at least one specific waste stream and determine if that waste was tested, the characteristics for which it was tested, the test methods used, the sampling methods used, and the frequency of analyses to determine compliance with permitting requirements and the WAP. Onsite facilities' WAPs shall be reviewed for completeness, appropriate procedures, etc.
- For off-site facilities the inspector shall review the WAP, analytical results and profiles that generators have supplied, and review how the off-site facility has implemented its procedures to control the acceptance and movement of wastes within the facility.
- Training Records - The inspector shall select the training records for at least one, but preferably every, hazardous waste employee to determine whether initial and annual refresher training was conducted. The inspector shall also review the training records for a new employee (less than one year with company) if available, to determine whether training was received within the first six months of employment.
- Closure/Post-Closure Documents - The inspector shall review the facility's most recently approved closure/post-closure plan, records required to be kept as part of the approved closure/post-closure plan, and cost estimate to determine whether they are complete and accurately reflect the facility's current hazardous waste activities. The inspector shall compare the current closure/post-closure activities to the approved closure/post-closure plan to ensure these activities are included in the plan. The inspector shall obtain copies of the most recent closure cost estimate for a financial responsibility review to be conducted by DTSC's financial responsibility analysts.
- Contingency Plan and Implementation Records - The inspector shall check the contingency plan's list of emergency coordinators, and their respective phone numbers and addresses, to determine if these items are current. The inspector shall also check the operating record for incident reports to determine whether the contingency plan was

implemented, whether appropriate actions were taken, and whether notification reports were submitted.

- Inspection Records - The inspector shall review inspection records for the prior week and at least another one-week time period since the last DTSC or CUPA inspection to determine whether regular inspections were conducted by the facility, results documented properly, and problems resolved. The inspector shall be sure that all elements required are documented and in the inspection record.
- Tank Systems - If the facility manages hazardous wastes in tanks, the inspector shall determine whether the facility has installed secondary containment. The inspector shall review integrity assessment certifications and records, as appropriate, including the appropriate licensure of the engineer(s) signing off. The inspector shall look to see if the tanks were modified, which may invalidate the tank's certification. The inspector may also obtain a copy of the tank assessment(s) and submit it to the Geology and Remediation Engineering Branch for review. For permitted facilities, the inspector shall also ensure that the facility has a plan and schedule for ongoing assessment of tank integrity, as required pursuant to California Code of Regulations section 66264.195(e).
- Manifest and Land Disposal Restrictions Records - The inspector shall review a representative number of manifests and LDR notifications and certifications prepared since the last inspection for proper completion, use, and maintenance. Information initially obtained during the pre-inspection preparation shall be compared to manifesting information found during the site visit.

Copies of documents that establish violations shall be obtained for inclusion in the inspection report regardless of the type of inspection. As documents are obtained by the inspector, the inspector shall label the document with the date and name of the individual who provided the document.

If a facility is also a generator and a generator inspection is being conducted as part of a facility inspection, documents that generators are required to have shall be reviewed for compliance as part of a CEI. The inspector shall determine if the generator prepared a waste minimization plan and other documents as required.

4. Summary of Observations (SOO) (T:\FORMS\EERP Documents):

At the conclusion of the inspection, the inspector shall complete and give to the operator a written Summary of Observations (SOO) if no violations were observed.

5. Summary of Violations (SOV) (T:\FORMS\EERP Documents): At the conclusion of the inspection, the inspector shall complete and give to the operator an SOV for any alleged violations. Minor violations corrected during the inspection shall be documented in the Summary of Violations and Narrative of Observations sections of the inspection report. Minor violations corrected during the inspection shall be noted as having been corrected during the inspection in the SOV.

For each violation, the inspector shall cite the statute, regulation, permit section, variance section, or enforcement order section that was violated and describe the violation by referencing language from the provision cited. In a separate paragraph, the inspector shall state the actions necessary to correct each violation. The inspector shall discuss the SOV with the operator.

Under limited circumstances and with the concurrence of the supervisor, the inspector may need to delay the issuance of the SOV pending internal discussions due to the complexity of the violations or the number of violations found. In these cases, the SOV shall be issued and the discussion with the facility operator will occur as soon as reasonably possible.

Later discovered violations can be included in an amended SOV, notification letter, or cover letter to the inspection report as appropriate.

6. Notice of Violation (NOV) (T:\FORMS\EERP Documents):

An NOV shall be issued in the field prior to leaving the site when situations are encountered that pose a serious threat to the health and safety of the public or to the environment.

If the inspector observes situations that pose a serious threat to the health and safety of the public or to the environment the inspector shall immediately consult with his/her supervisor. Those situations could include, but are not limited to, leaking tanks or containers, storage of incompatible hazardous wastes, unauthorized treatment activities that could cause a release, or unauthorized disposal to a drain or to the ground.

The supervisor and inspector shall determine if an SOV or NOV shall be issued based on the conditions at the site.

The NOV shall identify the specific conditions and/or circumstances observed and the regulation or statute that was violated. It shall identify the remedy to correct the conditions(s) and specify a time by which the

violation shall be corrected. The inspector shall also conduct a timely follow-up visit to determine if the conditions identified in the NOV have ceased.

**It may also be necessary to notify the local emergency response personnel, district attorney, or other law enforcement personnel if the situation poses a serious, imminent threat.**

7. Discussion with Facility Operator:

The inspector shall discuss all violations, observations, and unresolved issues with the facility operator. If the operator provides convincing information or evidence that an apparent violation did not occur and the inspector concludes that it is not a violation, it shall be deleted from the SOV.

If there are any violations observed, other than minor violations corrected during the inspection, the inspector shall describe the enforcement process and inform the operator that DTSC may pursue enforcement action.

The inspector shall inform the operator that a copy of the inspection report will be sent to the facility within 60 days of the inspection, that the operator may request a meeting to discuss the violations and proposed corrective actions described in the report, and that the operator will be required to submit a written response to DTSC describing the corrective action(s) taken.

If no violations were observed, the SOO shall indicate that no violations were observed during the inspection for the areas evaluated (i.e., the inspector cannot state there were no violations in areas not evaluated.) The inspector shall provide the SOO to the operator at the conclusion of the inspection.

If there are any issues that require further investigation, the inspector shall discuss the issues with the operator and document the issues in the SOO or SOV. The inspector shall inform the operator that additional violations may be identified after pending issues are resolved.

The inspector shall inform the operator of any waste minimization opportunities observed and give the operator any relevant compliance assistance literature or refer the operator to the DTSC's Office of Pollution Prevention and Green Technology for further assistance.

The inspector may provide a copy of the California Compliance School booklet to the operator.

### C. Post-Inspection Procedures

1. Brief Supervisor - The inspector shall, at the earliest opportunity, brief his or her supervisor concerning the results of the inspection, including unresolved issues.
2. Complete FR Review Request form – For facilities required to have Financial Responsibility attach copies of documents obtained from the facility, which detail the most current closure cost estimate, to the FR review request form (T:\FORMS\EERP Documents) and submit the form and documents to your supervisor for sign-off. The package is then sent to the designated FR analyst for completion.
3. Post-HARP - The inspector shall complete a Post-HARP form within five days after completing an inspection, and submit copies to the regional industrial hygienist and the inspector's supervisor.
4. Write Observations - The inspector shall begin to write the Narrative of Observations section of the inspection report within one week after completion of the inspection visit.
5. Photographs - Digital pictures shall be printed and/or written to a CD or LAN drive promptly after the inspection. The inspector shall not alter digital pictures or change the name of the original digital picture file. If print film is used, film shall be processed promptly after the inspection.

Photographs and digital prints (printed for mounting) shall be identified with the date of the inspection (if not date-stamped by the camera), the name of facility, signature or initials of the photographer, and a brief caption identifying specifically what the photograph or digital print depicts. Photos may be inserted into the text of the report or may be included as an attachment. A map or sketch showing the location at the facility and the direction from which the photographs were taken may also be included, where appropriate. If print film is used, the inspector shall properly identify and group negatives together by inspection and place each group of negatives in a separate negative holder. All photographs and digital prints shall be given to the inspector's supervisor with the inspection report.

If no major violations were found, and/or if no formal enforcement action is planned, the inspector shall obtain double copies of all photographs taken during the inspection. If enforcement action is anticipated, the inspector shall obtain at least three copies of all photographs for an enforcement package.

A copy of all photographs and/or digital prints taken at the facility shall be provided to the owner or operator of the facility as part of the inspection report.

Further guidance on photographs can be found at the Cal/EPA website [www.calepa.ca.gov/Enforcement/Policy](http://www.calepa.ca.gov/Enforcement/Policy).

6. Inspection Report - The inspector shall submit a final draft of the inspection report with all attachments and associated cover letter (Attachment and T:\FORMS\EERP Documents) to his or her supervisor or peer reviewer as appropriate within 40 days of the first day of the inspection or as soon as reasonably possible. Inspection reports shall be reviewed and approved by the supervisor or peer reviewer, as appropriate, within 50 days of the first day of the inspection (or last day of the inspections if a GME/OAM inspection) or as soon as reasonably possible. The amount of detail in an inspection report shall be proportional to the complexity of the inspection and the number and significance of the violations found.

All violations described in the SOV shall be cross-referenced in the inspection report. All violations corrected by the facility during an inspection shall be noted in the inspection report.

If a decision is made that a formal enforcement action will be taken and at the point at which the inspector determines that the violations will likely exceed \$30,000, a request for legal assistance shall be sent to the Office of Legal Affairs (DTSC Form 1463).

If the facility's response to the SOV is received in sufficient time prior to the completion of the inspection report, the response shall be reviewed and comments integrated into the report.

In accordance with Health and Safety Code, section 25185 (c)(2)(A), DTSC is **required** to provide a copy of the inspection report to the person inspected within five days of completing the inspection report, and in no case more than 65 days from the date of the inspection, unless specific statutory exemptions apply.

If the report cannot be provided to the facility within 65 days, the facility shall be informed via letter and given a date by which the report will be provided.

For all inspections except GME/OAM inspections, the first day of inspection will constitute the date of the inspection. (U.S. Environmental Protection Agency Hazardous Waste Civil Enforcement Response Policy, December 2003,

<http://www.epa.gov/compliance/resources/policies/civil/rcra/finalerp1203.pdf>) For GME/OAM inspections the last day of the inspection will constitute the date of the inspection.

If sampling or laboratory results are not available at the time the inspection report is prepared, the inspector shall state so in the report. Those results shall be provided to the operator in an addendum report within ten working days of their receipt by the inspector. If additional violations are determined based on the sampling results, a cover letter detailing the additional violations and required corrective actions shall be prepared and sent to the facility with the addendum report.

Addendum reports shall be used to supplement inspection reports. For example, an addendum report would be appropriate to report sampling results, follow-up interviews, enhanced surveillance, and a facility revisit. Because the purpose of a supplementary report is simply to add information to an inspection report that already contains all necessary information, it is not necessary to repeat all of the information in the addendum report.

It is only necessary to complete the information needed to identify the facility (i.e., Company Name, Facility Address, Telephone Number, and Identification Number) and the Type of Inspection (i.e., Addendum) when completing the General Information section for an addendum report. Use the other sections of the inspection report to document additional information, including the ongoing inspection date, and inspection report date, as appropriate.

If additional violations have been determined subsequent to the inspection, those violations and the corrective actions necessary to bring the facility into compliance shall be included in the cover letter associated with the addendum report.

The full inspection report shall be prepared for RCRA inspections of facilities receiving Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA) waste (i.e., "off-site rule" facilities), and CEI inspections. Copies of the completed inspection report shall be sent to Region IX, U.S. EPA , RCRA Enforcement Section.

A streamlined inspection report may be prepared for re-inspections, compliance initiative inspections, generator inspections, follow-up inspections, and enhanced surveillance inspections, as appropriate. An inspector can generate a streamlined inspection report by omitting unnecessary sections from the full inspection template. As with the full

inspection report, the streamlined inspection report shall adequately document and support the results of the inspection.

7. Field notes - All relevant information from field notes shall be included in the inspection report. **After the inspection report is finalized, field notes, checklists, and drafts of the inspection report shall be destroyed.** The final inspection report is the official record of the inspection.
8. Tracking - The inspector shall complete the Inspection Evaluation data entry Form (T:\FORMS\EERP Documents) within three working days after the inspection. If violations are found, the Violation and Enforcement data entry Form (T:\FORMS\EERP Documents) shall also be submitted. These forms may be obtained from, and returned completed to, the inspector's supervisor. They are to be submitted all together.
9. Sending Inspection Report to Facility - Within five days after the approval of the report, and no later than 65 days from the date of the inspection, the inspector shall send a copy of the inspection report to the operator (Health and Safety Code, 25185 (c)(2)(A)). The report shall contain all pertinent information, including documentation, sample results and photographs. To save on copying and mailing costs, attachments that are copies of documents that were provided by the facility during the inspection may be omitted from the copy of the report sent to the facility. If the operator requests copies, they shall be provided.

The inspector shall send the appropriate cover letter (T:\FORMS\EERP Documents) with the report, describing the operator's rights and responsibilities under Health and Safety Code section 25185(c).

The cover letter can include an acknowledgement of any submittal by the facility in response to the SOV and can address the adequacy of their response to the violations.

If the report cannot be provided to the facility within 65 days, DTSC shall so inform the operator via letter within 70 days and give a date by which the report will be provided.

Health and Safety Code section 25185(c)(2)(c) provides, "Information from the inspection report, or the report itself, may be withheld by the department or the local officer or agency if necessary to a criminal investigation or other ongoing investigation in which the department or the local officer or agency determines, in writing, that disclosure of the information will result in a substantial probability of destruction of

evidence, intimidation of witnesses, or other obstruction of justice.” This determination shall be made for DTSC by the Performance Manager.

10. Report of Violation - Within 30 working days from the date of receipt of the operator’s response to the inspection report, the inspector shall issue a “report of violation or other appropriate document” if DTSC determines that the violation(s) still exist, the corrective action taken or proposed by the operator is inadequate, or the operator contests the violation(s) [Health & Safety Code, section 25185 (c)(3)].

“Other appropriate document” includes a letter responding to the facility in response to their submittal that describes the status of each violation contained in the original SOV and/or the violation section from the inspection report would suffice for this statutory requirement.

#### **D. Confidentiality**

1. Documents Associated with an Enforcement Action - Preserving the confidentiality of documents related to enforcement actions is important; however, not all documents are confidential. See Administrative Directive DO 1-03-10, Public Records Act Policy, and/or subsequent amendments thereto for more information.

Documents obtained in the course of an inspection that are not part of the inspection report may be confidential. These documents are not subject to disclosure under the Public Records Act if they are a record pertaining to pending litigation and/or they comprise the record of an investigation compiled for law enforcement purposes [Government Code, sections 6254(b) and (f)]. After any litigation is complete or the case is settled, these documents may become public records. Consult with OLA.

2. Draft Documents -Preliminary draft documents are confidential under the Public Records Act, pursuant to Government Code section 6254(a). Documents lose their exemption from public disclosure when the documents are finalized or released to the facility, e.g , Draft Consent Order Draft copies shall be disposed when the document is finalized. See DO 1-30-10 and/or subsequent amendments thereto for more information.
3. Attorney-Client Privilege - Attorney-client communications for the purpose of legal counsel are not discoverable, and are exempt from disclosure under the Public Records Act. Evidence Code section 954 sets forth the attorney-client privilege. See DO 1-03-10 and/or subsequent amendments thereto for more information.

Communications to and from attorneys in OLA or the Office of the Attorney General for the purpose of legal counsel, shall be marked "confidential" or "attorney-client privilege," and shall be kept in a confidential file. Documents subject to the attorney-client privilege remain confidential even after enforcement action is completed.

4. Attorney Work Product Doctrine - The "work product" of an attorney is not discoverable, and is exempt from disclosure under the Public Records Act. Documents protected by the attorney work product doctrine shall be stamped "confidential" or "attorney work product" and shall be kept in a confidential file. Attorney work product documents remain confidential, even after enforcement is completed. See DO 1-03-10 and/or subsequent amendments thereto for more information.
5. Trade Secrets - "Trade secrets" are confidential. Within ten days of receipt of the inspection report, the operator may submit a letter to DTSC identifying trade secret information revealed in the inspection report, and request that such information be withheld from public disclosure. Failure to make a timely claim of confidentiality will waive the claim. There may be legal consequences to the DTSC employee if such information is improperly disclosed. See California Health and Safety Code, section 25173, California Code of Regulations, title 22, section 66260.2, and the references contained therein.

## **VIII. ROLES AND RESPONSIBILITIES**

### **A. Inspector**

1. Completes and submits a Hazard Appraisal Recognition Plan (HARP) Pre-Site Visit Form to supervisor and DTSC's industrial hygiene staff in the Technical Workforce Development Branch for approval prior to each inspection, pursuant to the HARP policy. After each inspection, completes and submits a Hazard Appraisal and Recognition Plan Daily Site Visit Document (Post-HARP) to supervisor and industrial hygiene staff.
2. Prepares for inspections.
3. Conducts inspections.
4. Completes the Summary of Violations (SOV), if violations are observed, or the Summary of Observations (SOO), if no violations are observed, completes the Notice of Violation (NOV) if the applicable conditions exist,
5. Completes inspection reports, inspection report transmittal letter, any correspondence with the facility, as deemed appropriate by the supervisor.

6. Recommends appropriate enforcement action, and completes all data entry forms.

7. Conducts peer review of other inspectors' inspection reports.

## **B. Supervisor**

1. Ensures that inspectors receive required training and equipment prior to conducting inspections, and are current on HAZWOPER, medical monitoring, respirator fit testing, and CPR/AED/First Aid training, as appropriate.

2. Assigns inspections to inspectors.

3. Reviews and approves a HARP form prior to each inspection, and reviews a Post- HARP after each inspection.

4. Review inspection reports as appropriate.

5. Coordinate with inspectors to ensure that all work associated with an inspection is done in a timely and effective manner. Coordinate with inspectors as appropriate.

## **C. Performance Manager and/or Supervisor**

Coordinates the development and implementation of the annual work plan and inspection schedule.

## **D. Office of Legal Affairs**

1. Provides legal guidance and clarification on issues that may result from the inspection process.

2. On an as-needed basis, provides consultation on the SOV for complex violations.

## **E. Office of Criminal Investigations**

1. Investigates alleged criminal violations of the Hazardous Waste Control Law, and assists inspectors with the development and issuance of inspection warrants.

2. On an as-needed basis, provides consultation on unique inspections/investigation issues.

#### **F. Technical Workforce Development Branch**

Reviews and approves HARP forms; reviews each Post-HARP form; provides health and safety equipment and guidance to inspectors; and monitors sampling and mixed waste inspection activities as needed.

#### **G. Support Staff - typically a Staff Services Analyst (Data Manager), Office Technicians, or Management Services Technicians.**

1. Formats inspection documents, makes copies, disseminates copies, and files documents.
2. Enters information from various data entry forms into the data system; generates reports; performs quality assurance and quality control review of the data. (Data Manager).

#### **CONTACT:**

Department of Toxic Substances Control  
Enforcement and Emergency Response Program  
1001 "I" Street, 11<sup>th</sup> Floor  
P. O. Box 806  
Sacramento, California 95812-0806  
(916) 323-3577

***This policy is intended to provide guidance only. The policy does not replace or supersede relevant statutes and regulations. The information contained in this policy is based upon the statutes and regulations in effect as of the date the policy was signed. Interested parties are advised to keep apprised of subsequent changes to relevant statutes and regulations.***

***This policy expires five years from the date of signature.***

## ATTACHMENT A

### INSPECTION REPORT INSTRUCTIONS

*The amount of detail in an inspection report shall be in proportion to the complexity of the inspection and the number and significance of the violations found.*

#### I. General Information

- Facility Name  
Use the complete name of the facility or business. If the site is not a business, use the best description to identify that particular site.
- Facility Address  
Use the business address. If there is no business address, then use the site location. If the facility's mailing address is different, list it also.
- Facility Telephone Number  
List the facility telephone number.
- Identification Number (ID) Number  
Use the identification number listed in the Hazardous Waste Tracking System (HWTS). If the facility or site does not have a number, then indicate "No ID Number."
- Facility Type  
Storage, treatment, disposal facility, generator, transporter, electronic waste, or other.
- Regulated Units  
Type and number of regulated units at the facility. It is helpful here to also identify the units using the facility's nomenclature and numbering sequence.
- Waste streams  
List the wastes handled, including their respective quantities and properties. Describe whether each waste is RCRA or non-RCRA.
- Regulatory Status  
Permitted, interim status, tiered permitting, generator, variance, illegal operator, other.
- Inspected By  
List name(s) of the inspector(s). If there is more than one inspector, indicate who is the lead inspector. Include all DTSC employees

present and the days of their involvement, as appropriate. If accompanied by another agency, the inspector shall include the name of the agency and the name and title of the person.

- Date of Inspection  
List date(s) inspection was conducted.
- Type of Inspection  
Indicate type of inspection (e.g., CEI).
- Facility Representative  
List all other persons present during the inspection, and their respective positions and/or titles.
- Type of Business  
State the type of business (e.g., military base, transporter, solvent distributor).
- Owner/Operator and Management  
Describe who owns and operates the facility and/or site. List the names of people directly responsible for hazardous waste management. Different entities may own the facility, the business, and/or property on which the facility is located, or the operator may rent the facility. List all owners and operators. The owners and operators may be corporations, partnerships, or individuals. If it is a corporation, list the State of incorporation, which can be obtained from the Secretary of State.

## **II. Consent**

Document the name and title of the company representative that granted or refused consent. Document the date and time at which consent was granted or refused.

## **III. Background**

- A general description of the business.
- A general description of the activities conducted at the facility.
- The inspector shall provide quantitative data such as number and volume of containers, tanks, sumps, and other equipment.
- A physical description of the site, including size and surrounding land use.
- The age and size of the business.
- Whether the inspected facility is the only location of the business or if the business operates at other locations as well.

- A brief summary of previous contacts with the facility and pertinent historical information.
- A list of inspections during the previous five years, including:
  - date;
  - number and type of violations;
  - enforcement action taken; and
  - results
- A list of any other environmental agencies that regulate the facility, the permit status of the facility with the other agencies, and any pending enforcement actions brought against the facility by other agencies.
- Other information as appropriate.

#### **IV. Documents Reviewed**

As appropriate, a representative number of the following documents shall be reviewed:

Manifests, manifest discrepancy reports, bills of lading, land disposal restriction notifications, exception reports, import/export reports, contingency plan, training plan and records, incident reports, waste analysis plan and records, operation plan, inspection records, tiered permitting applications and authorization letter, annual/biennial reports, hazardous waste source reduction plans, closure cost estimates and updates, permit (Part A and B), tank and/or containment certifications, variances, recycling records, or any other record relating to the management of hazardous waste.

The inspector shall document the findings for all documents reviewed and document an explanation (not applicable, not available, etc.) for documents not reviewed.

#### **V. Narrative of Observations**

The inspector shall describe observations, occurrences, and information obtained during the inspection. This shall include a brief chronological narrative of the inspection, additional safety measures the facility may have required of the inspector, indications of potential or actual violations by other companies (transporters, generators, or facilities), possible conflicting information in a permit, or any other information to be included in the report. If digital photos were taken, photos may be inserted throughout the text to document observations, facility conditions, and violations or may be included as an attachment.

**Information provided in this section becomes of great value during an enforcement action.** When there are subsequent changes to the

facility, it is helpful to go back to review the details of previous inspection reports to determine what is different and when the change may have occurred. It is not necessary to repeat observations that are noted elsewhere in the report.

## **VI. Violations**

Is the Summary of Violations attached –Yes or No.  
Was an NOV issued? If so is it attached- Yes or No.

If no violations were detected or violations cannot be determined until sample results or other evidence are received, then the inspector may state as follows: 1) "No violations observed as a result of this inspection"; or 2) "Violation determination pending ..." **Do not make a statement that the facility has no violations.**

## **VII. Sampling Activities**

The inspector shall thoroughly describe all sampling activities during the inspection. Photos taken shall document sampling activities and samples in this section. Indicate if field replicate samples were requested and given to the operator.

## **VIII. Discussion with Operator**

The inspector shall summarize the operator's response to the inspection and alleged violations. If the operator refuses to correct the violations, the inspector shall document the stated reasons. The inspector shall indicate both negative and positive responses on the part of the operator during all discussions.

If an SOV was issued at the time of the inspection, the inspector shall state whether the operator disagreed with any of the alleged violations.

The inspector shall summarize any issues that remain unresolved. For each issue, the inspector shall indicate the known facts, the questions, and the reason(s) why the issue is not resolved and appropriate follow-up actions.

Documentation of any subsequent conversations held with the operator regarding violations, submittals from the operator, documents received during the inspection, or while evaluating issues observed during the inspection, may be included in this section.

**IX. Attachments**

Any attachments shall be preceded by a List of Attachments indicating the attachment number as it is referenced in the inspection report, its title or description, and the number of pages in the attachment. Items that shall be attached to the inspection report include the SOV or SOO, ECL Sample Analysis Request, sample analysis reports and summaries, sample receipts, photos, logs, drawings, maps, diagrams, and copies of operating records/documents.

**INSPECTION REPORT**

**I. GENERAL INFORMATION**

- Facility Name:
- Facility Address:
- Telephone Number:
- ID Number:
- Facility Type:
- Type of Business:
- Waste streams:
- Regulated Units:
- Regulatory Status:
- Owner/Operator:
- Facility Representative(s):
- Type of Inspection:
- Inspected By:
- Date(s) of Inspection:

**II. CONSENT**

Consent to conduct an inspection includes: inspecting hazardous waste handling areas, taking photographs, conducting sampling activities, and reviewing and copying documents.

Consent given by  
(name, title, and time): \_\_\_\_\_

Consent refused by  
(name, title, and time): \_\_\_\_\_

**III. BACKGROUND**

**IV. DOCUMENTS REVIEWED**

**V. NARRATIVE OF OBSERVATIONS**

**VI. VIOLATIONS**

Summary of Violations Attached? Yes ? No ?

**VII. SAMPLING ACTIVITIES**

**VIII. DISCUSSION WITH OPERATOR**

**IX. ATTACHMENTS**

\_\_\_\_\_  
Inspector (Print Name and Title)

\_\_\_\_\_  
Inspector (Signature)

\_\_\_\_\_  
Date