



DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

December 2004
Brownfields Workshop

Program Highlights

Statutory Authority:
California Health and
Safety Code, sections
25300 et seq., 58009
and 58010

Number of Agreements:
12 completed

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Prospective Purchaser Program

The Department of Toxic Substances Control (DTSC) developed a Prospective Purchaser Program to remove or lessen the liability associated with purchasing a contaminated site.

Some of the highlights of this program are listed below:

- DTSC will not sue the prospective purchaser under State and federal law for contamination that existed at the site prior to the date of purchase as long as certain conditions are met.
- A prospective purchaser is not required to admit to legal liability for the remediation of a site when entering into a Prospective Purchaser Agreement (PPA) with DTSC.
- Can provide "contribution protection" to reduce the threat of a private cost recovery law suit against a prospective purchaser.
- A standardize agreement has been developed to streamline the negotiation process.

Prospective Purchaser Eligibility Requirements:

- Must be a person or entity that is purchasing all or part interest in real property, and must not be a responsible party or affiliated with any person potentially liable for response actions at the Site.
- Must be financially viable and willing to enter into an agreement with DTSC to ensure that DTSC's oversight costs are paid and that a response action will be implemented that completely remediates the site or will make significant progress toward a complete remedy.
- The Prospective Purchaser must demonstrate a substantial benefit to the local community will occur as part of the Site redevelopment.

Eligibility Requirements for the Site:

- A Preliminary Endangerment Assessment or equivalent document has been prepared that demonstrates the Site falls under DTSC's jurisdiction because of an actual hazardous substance release.
- Unauthorized disposal of hazardous waste is not currently occurring at the site.
- The Site is not the subject of an active enforcement action or under an agreement or order with another agency with jurisdiction to address the remediation at the site, unless that agency transfers oversight to DTSC.
- Continued operation or new development at the Site will not result in unacceptable health risks to Site users.
- The continued operation at the Site or new site development, with the exercise of due care, will not exacerbate or contribute to the existing contamination or interfere with the investigations of the extent, source and nature of the hazardous substance release(s), and/or the implementation of remedial or removal actions.

DTSC web site link for more information:

<http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm>