



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

SENATE BILL 923  
EXPEDITED REMEDIAL ACTION PROGRAM

FACT SHEET

October 1997

## SUMMARY

- # Chapter 6.85 of the Health and Safety Code (Senate Bill 923 (Calderon)) established a pilot program, known as Expedited Remedial Action Program (ERAP) for the cleanup of hazardous substance release sites using alternative procedures to those specified in Chapter 6.8 of the Health and Safety Code.
- # Senate Bill (SB) 923 is applicable to up to 30 response action sites that meet specific eligibility requirements.
- # The Department of Toxic Substances Control (DTSC) is designated as the lead agency to oversee the investigation and remediation of ERAP sites pursuant to Chapter 6.65 of Health and Safety Code titled, "Unified Agency Review of Hazardous Materials Release Sites" (Assembly Bill 2061).

## BACKGROUND

The California ERAP was established under the authority of the "Expedited Remedial Action Reform Act of 1994" (SB 923). This comprehensive program was designed to address many of the problems identified in the Federal Superfund Program established by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), which has come under criticism for being ineffective, using unfair liability schemes, and restricting opportunities for effective cleanup. ERAP provides for mitigation rather than litigation by revising the liability scheme based on fair and equitable standards; providing indemnification protection through a covenant not to sue; permitting risk-based cleanup based on the ultimate use of the site; providing a streamlined remediation process; and establishing a dispute resolution process. Key economic and liability provisions provide incentives to motivated persons to voluntarily remediate their contaminated properties. These incentives are especially applicable to "Brownfield" properties, which are typically abandoned facilities located in older industrial areas. Revitalizing these depressed areas creates a unique opportunity for industry, government, and communities to improve the economic and environmental conditions within their communities.

Principle ERAP benefits include:

- # Land use designation early in the project;
- # Remedy selection based on planned land use, contingent upon formal land use restrictions;
- # Early public notification and input;
- # Possible modification of site boundaries, to release clean parcels for development after a Remedial Action Plan has been approved;
- # Indemnification of participating responsible persons through a covenant not to sue;
- # Apportionment of liability based on fair and equitable principles;
- # Potential State funding for “orphan” shares, where responsible persons cannot be identified or located, are found to be insolvent, (to the extent funds are available for up to ten sites).
- # Formal dispute resolution process available to responsible persons, members of the public, and the affected community; and
- # Consolidated permitting and certification for all state and local agencies through DTSC.

Status of ERAP:

- # Fourteen sites have been designated to participate;
- # Six of the ten sites which may be eligible for orphan shares, to the extent funding is available, have been identified;
- # Cleanup activities are underway or have been completed for three sites, with Remedial Action Plans under review for three additional sites;
- # The program regulations were adopted on December 14, 1996, and regulations that guide the arbitration procedures were adopted on January 17, 1997.
- O For additional information, please contact Megan Cambridge, Special Assistant for Brownfields Chief at (916) 255-3727.