

This draft document has not been approved by DTSC and is for discussion purposes only.

California Department of Toxic Substances Control (DTSC)

Draft Civil Rights and Language Access Implementation Plan

October 2017

To be finalized after adoption of DTSC's Civil Rights Policy and Language Access Policy.

Table of Contents

Table of Acronyms	1
Introduction	1
Organization and Responsibilities.....	2
Applicable Laws, Regulations and Policies.....	4
General Implementation.....	5
Environmental Justice.....	6
Public Access to Civil Rights Information.....	7
Language Access	8
DTSC’s Language Access Plan.....	8
Translation and Oral Interpretation of Vital Documents and Information	10
Performance Metrics and Evaluation	15
Training	16
Data Sources and Tools.....	17
Metrics and Evaluation	17
Implementation Timeline	18
Complaints	19
Filing a Civil Rights Complaint with DTSC.....	19
Filing a Language Access Complaint with DTSC.....	22
Questions or Inquiries.....	22
Specific Program Implementation	24
Permitting	24
Compliance Inspections.....	28
Corrective Action	32
Military Sites	37
Site Mitigation.....	42
Rule Development	47
Safer Consumer Products	51
Public Participation	55

Appendices

- A. Map of Regional Offices
- B. Key Contact Information
- C. DTSC Organization Chart
- D. Office of Civil Rights Organization Chart
- E. Program Descriptions
- F. Vital Documents and Information Translation/Interpretation Evaluation Framework
- G. Implementation Check Lists
- H. Public Participation Activities and Coordination

DRAFT

Table of Acronyms

AA – Alternatives Analysis	PPS – Public Participation Specialist
APA – Administrative Procedure Act	RAO – Remedial Action Order
CACA – Corrective Action Consent Agreement	RAP – Remedial Action Plan
CAG – Community Advisory Group	RAW – Removal Action Workplan
CalEPA – California Environmental Protection Agency	RCRA – Resource Conservation Recovery Act
CAO – Corrective Action Order	RFI – RCRA Facility Investigation
CD – Consent Decree	RI – Remedial Investigation
CEQA – California Environmental Quality Act	ROD – Record of Decision
CMS – Corrective Measures Study	RS – Remedy Selection
CUPA – Certified Unified Program Agency	RWQCB – Regional Water Quality Control Board
DTSC – Department of Toxic Substances Control	Title VI – Title VI of the Civil Rights Act of 1964
EERD – Enforcement and Emergency Response Division	U.S. DOJ – United States Department of Justice
EIR – Environmental Impact Report	U.S. EPA – United States Environmental Protection Agency
HWMP – Hazardous Waste Management Program	SCP – Safer Consumer Products
IM – Interim Measures	SEP – Supplemental Environmental Projects
ISE - Imminent and Substantial Endangerment	SI – Site Investigation
LEP – Limited English Proficiency	SPWP – Safer Consumer Products and Workplaces Program
MOU – Memorandum of Understanding	VCP – Voluntary Clean-up Program
NOD – Notice of Deficiency	
NOI – Notice of Incompleteness	
NPL – National Priority List	
OC – Office of Communications	
OCI – Office of Criminal Investigations	
OCR – Office of Civil Rights	
OEJTA – Office of Environmental Justice and Tribal Affairs	
OPP – Office of Public Participation	
PA – Preliminary Assessment	
PEA – Preliminary Endangerment Assessment	
PPP – Public Participation Plan	

Introduction

The Department of Toxic Substances Control (DTSC) is committed to the principles of environmental justice, equal opportunity, and equitable service for all individuals in the State of California. DTSC has and will continue to meet the intent and provisions of both Title VI of the Civil Rights Act of 1964 (Title VI) and California Government Code section 11135. Combined, these laws provide that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation in any program, service, or regulatory activity undertaken by DTSC. DTSC will not tolerate discrimination against any person seeking to participate in, or receive the benefits of, any program or activity that DTSC offers or conducts.

The Civil Rights Restoration Act of 1987 defined the word “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal funds. (See 42 U.S.C. § 2000d-4a; *Ass’n. of Mex.-Am. Educ. v. California* (9th Cir. 1999) 195 F.3d 465, 474-5, rev’d in part on other grounds, 231 F.3d 572 (9th Cir. 2000) (en banc).) As an agency that receives federal funds, DTSC has an affirmative obligation to ensure that none of its activities or programs is discriminatory, and it is committed to ensuring full compliance in all of its programs, with civil rights laws and regulations. DTSC expects every manager, supervisor, and employee to be aware of and apply the intent of Title VI and related nondiscrimination statutes in performing their duties. DTSC also requires its contractors to comply with applicable civil rights, nondiscrimination, and language access laws.

DTSC has adopted a Civil Rights Policy (DTSC-XX-XXX) to ensure that DTSC carries out all of its duties and responsibilities in a non-discriminatory manner that complies with federal and state civil rights laws. DTSC also adopted a Language Access Policy (DTSC-XX-XXX) and is committed to ensuring early, equal, and meaningful access to critical DTSC programs, services, activities, and information, and to removing barriers to access to its programs to persons with Limited English Proficiency (LEP). The Language Access Policy also supports DTSC’s implementation of its Civil Rights Policy. Together, the Civil Rights Policy and the Language Access Policy ensure DTSC’s compliance with federal and state civil rights laws, including Title VI, Executive Order 13166, California Government Code section 11135, and the California Dymally-Alatorre Bilingual Services Act.

DTSC has developed this Civil Rights and Language Access Implementation Plan (Implementation Plan) to guide DTSC’s implementation of its Civil Rights and Language Access Policies. This Implementation Plan includes a discussion of the key program areas where public

This draft document has not been approved by DTSC and is for discussion purposes only.

access to decision making is central to the function of the program. For these key program areas, the Implementation Plan provides specific steps and actions that DTSC will take to implement DTSC's Civil Rights Policy and Language Access Policy. The Implementation Plan is a living document that will be updated and amended as needed to guide and support DTSC's implementation of the Civil Rights and Language Access Policies. The Implementation Plan discusses how DTSC will train staff in the implementation of DTSC's Civil Rights Policy and Language Access Policy, monitor DTSC's compliance with the policies, and report on that compliance.

Organization and Responsibilities

DTSC has nine Regional Offices located throughout the State of California. A map of DTSC's Regional Offices is included as Appendix A. As discussed below, a number of offices and programs within DTSC have significant civil rights and language access responsibilities.

The Director of DTSC is responsible and accountable for ensuring DTSC's compliance with civil rights laws, regulations, and policies.

DTSC's Office of Civil Rights (OCR) oversees implementation of, and compliance with, civil rights laws, regulations and policies, and with this Implementation Plan. Under the Implementation Plan, civil rights and language access complaints are submitted to and reviewed by the Civil Rights Officer. The Civil Rights Officer also carries out specific duties related to monitoring and reporting on DTSC's compliance with its Civil Rights and Language Access Policies. Specifically, the responsibilities of the Civil Rights Coordinator are to:

- Maintain and administer the Implementation Plan,
- Promote internal and external awareness of DTSC's legal civil rights protections, the Civil Rights Policy and the Language Access Policy, and DTSC's responsibilities for fair and equal treatment of all people.
- Provide technical expertise and training on civil rights matters.
- Conduct compliance reviews of DTSC's programs to ensure compliance with civil rights requirements.
- Report on DTSC's civil rights related activities and compliance on an annual basis.
- Ensure "Potentially Interested Communities" and LEP populations within those communities are properly identified.

The Civil Rights Officer oversees OCR and reports directly to the Director of DTSC. Contact information for DTSC's Office of Civil Rights Appendix G.

This draft document has not been approved by DTSC and is for discussion purposes only.

DTSC's Office of Environmental Justice and Tribal Affairs (OEJTA) engages communities and tribes in respectful dialog to improve DTSC's understanding of community and tribal needs. OEJTA coordinates department-wide efforts to address community and tribal needs and integrate them into DTSC's core programs and implementation of its mission. The Assistant Director for Environmental Justice and Tribal Affairs oversees OEJTA and reports directly to the Director of DTSC.

DTSC is organized around three core program areas: the Brownfields and Environmental Restoration Program (Cleanup Program), the Hazardous Waste Management Program (HWMP), and the Safer Products and Workplaces Program (SPWP). The Cleanup Program investigates and restores contaminated properties for beneficial use. The HWMP implements and enforces hazardous waste management statutes and regulations, including the permitting and inspection of large hazardous waste facilities and certain other hazardous waste and universal waste operations. The HWMP also enforces statewide bans on toxic materials in specific products and the Toxics in Packaging Prevention Act, and conducts and supports criminal investigations into illegal activities surrounding hazardous waste. The SPWP embodies DTSC's worker safety program and the Safer Consumer Products (SCP) Program, which encourage the manufacture of safer consumer products. Each of the three core programs has specific steps and actions it must take to implement and ensure compliance with the Implementation Plan. Each core program is overseen by a Deputy Director who reports to the Chief Deputy Director of DTSC, who in turn reports to the Director.

DTSC's Office of Public Participation (OPP) supports public engagement in DTSC's mission, and in the decision making of the core programs. The OPP is responsible for ensuring full and equal access at public meetings and to materials provided to the public. The Deputy Director of Public Participation oversees the OPP and reports to the Chief Deputy Director.

The Office of Communications (OC) coordinates internal and external communication for DTSC, including media interactions, maintenance of the department's website, and communications over social media. The OC is responsible for ensuring equal access via the department's communication platforms. The Deputy Director of Communications oversees the OC and reports to the Chief Deputy Director.

Other DTSC offices and services include the Office of Legal Affairs, the Office of Legislative Affairs, the Office of Administrative Services, the Office of Environmental Information Management, and the Environmental Chemistry Laboratories. Implementation Plan

Organizational charts and contact information are available in Appendices A and B.

Applicable Laws, Regulations and Policies

This Implementation Plan implements DTSC's Civil Rights Policy (DTSC-XX-XXX) and Language Access Policy (DTSC-XX-XXX). The Civil Rights Policy and Language Access Policy generally implement Title VI of the Civil Rights Act of 1964 and California Government Code section 11135. The following is a non-exhaustive list of federal and state laws, regulations, and guidance that provides the foundation for these Policies:

1. Title VI of Civil Rights Act of 1964, 42 United States Code § 2000d et seq.
2. Executive Order No. 13166, 65 FR 50121 (Aug. 11, 2000)
3. Dymally-Alatorre Bilingual Services Act, California Government Code, § 7290 et seq.
4. California Government Code, § 11135
5. California Health and Safety Code, § 39711
6. The Age Discrimination Act of 1975, 42 United States Code § 6101 et seq.
7. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A § 794
8. Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, (Exec. Order No. 13166, 69 Fed. Reg. 35602 (June 25, 2004))
9. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 16, 1994))
10. U.S. Environmental Protection Agency, Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, Feb. 10, 2017, (Class. No. 1000.32)
11. U.S. EPA, External Civil Rights Compliance Toolkit (Jan. 18, 2017)
12. Dept. of Toxic Substances Control, Kettleman Title VI Settlement Agreement, Aug. 10, 2016

General Implementation

DTSC is committed to transparency and accountability in the performance of our mission, including our implementation of steps and actions to ensure fair and equitable treatment of all people and to remove language barriers to promote early, equal, and meaningful participation. This Implementation Plan provides guidance on the implementation of DTSC's Civil Rights Policy and Language Access Policy, and is organized around General Implementation, which includes department-wide guidance, and Specific Program Implementation Steps and Actions, which focuses on individual program areas.

DTSC recognizes that enforcement of civil rights laws and environmental laws are complementary, and can be achieved in a manner consistent with sustainable economic development. Therefore, a goal of this plan is to enable overburdened communities have full and meaningful access to DTSC's permitting process and develop permits that address environmental justice issues to the greatest extent practicable. To help achieve this goal, DTSC works to ensure meaningful outreach and public participation early and throughout the decision-making process to identify and resolve issues, and to also assure proper consideration of public concerns. We also recognize that intergovernmental actions, community-led initiatives, and innovative problem-solving approaches that include regulated entities can provide comprehensive solutions to concerns over particular projects.

On a department-wide level, DTSC is embedding principles of environmental justice, diversity and inclusion, transparency and accountability, and excellence in public service throughout all of our programs, activities, and services. DTSC has developed leadership training that focuses on competencies in these areas, and actively engages staff at all levels of the organization in our quest to advance these values.

In Title VI guidance to state and local agencies,¹ the United States Department of Justice (U.S. DOJ) urges agencies to "reaffirm commitment to nondiscrimination protections" saying:

"Leadership and commitment to nondiscrimination matter. Recipients who communicate this commitment internally in their departments, agencies, and organizations, as well as externally through training, policies, and outreach, will set the stage for improved Title VI compliance and more effective delivery of services. Robust information-sharing with affected or potentially affected communities is a practical way to reaffirm recipients' commitment to Title VI protections."

¹ *Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964*, page 6. U.S. DOJ. www.justice.gov/crt/fcs/EmergenciesGuidance

In 2016, DTSC established a Diversity and Inclusion work group comprised of individuals from each Regional Office and every level of staffing and management, representing job classifications throughout the department and a rich diversity of backgrounds and perspectives. This Diversity and Inclusion Work Group was tasked with evaluating DTSC's strengths, challenges, and opportunities in creating a culture that recognizes and embraces the importance and value of diversity and inclusion. In 2017, the work group submitted to the Director a report on its evaluation, and recommended a series of strategic goals and objectives for inclusion in the department's 2018 to 2021 Strategic Plan. DTSC is committed to implementing strategies to support a diverse and inclusive workforce, and respectful and meaningful engagement with the communities we serve. We believe these strategies will also support implementation of our Civil Rights Policy and Language Access Policy. Ultimately, this will help DTSC achieve and sustain excellence in public service as we protect the people and environment of California from exposure to harmful substances.

Environmental Justice

California law defines "environmental justice" to mean "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."²

California was one of the first states in the nation to codify environmental justice in statute. Beyond the fair treatment called for in the statute, leaders in the environmental justice movement work to include those individuals disproportionately impacted by pollution in decision making processes. The aim is to lift the unfair burden of pollution from those most vulnerable to its effects. DTSC is committed to implementing California's environmental justice statutes and policies in all of its activities and programs.

Potential Actions to Help Better Integrate Environmental Justice Into DTSC Decision-Making

DTSC is considering undertaking potential actions to better integrate environmental justice in the Department's permitting activities. These actions should better inform DTSC staff, stakeholders and regulated entities about environmental justice issues within a community and better inform permitting decisions in those communities. Consistent with this approach, DTSC will solicit input from community representatives, local governments, other state agencies, regulated entities and others. The actions under consideration include:

- Establish a framework and tools that helps permit writers determine when and how to consider and analyze environmental justice in permit decisions, and encourage the use of permit terms and conditions to address concerns to the extent supported by relevant law, science and other applicable information.

² Cal. Govt. Code, § 65040.12, subd. (e).

This draft document has not been approved by DTSC and is for discussion purposes only.

- Develop model permit terms and conditions that provide one starting point for helping to address environmental justice concerns at permitted facilities.
- Develop model permit terms and conditions that provide opportunities to leverage innovative technology to help increase transparency at permitted facilities.
- Develop model permit terms and conditions that reference potential sources of available assistance that can help to address environmental justice concerns at facilities.
- Develop an Environmental Justice Permitting Initiative with public, local government, and state and regional environmental agency input. The initiative could use tools already developed by the federal Environmental Protection Agency and develop additional tools to enhance community input and agency consideration of environmental justice issues in permitting decisions.

Public Access to Civil Rights Information

Civil rights laws, regulations, and policies provide specific rights and protections to the public DTSC serves, and DTSC is committed to informing the public about those rights.

DTSC is committed to providing the public with our policy statements on civil rights and language access, as well as information about how to file a civil rights or language access complaint. The following policy statements are included in information posted on DTSC's website and at each DTSC office:

Civil Rights:

The Department of Toxic Substances Control (DTSC) is committed to the principles of environmental justice, equal opportunity, and equitable service for all individuals in the State of California. DTSC has and will continue to meet the intent and provisions of both Title VI of the Civil Rights Act of 1964 and California Government Code section 11135. Combined, these laws provide that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation in any program, service, or regulatory activity undertaken by DTSC. DTSC will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activities that DTSC offers or conducts.

Language Access:

The Department of Toxic Substances Control (DTSC) is committed to ensuring early, equal, and meaningful access to critical DTSC programs, services, activities, and information to persons with Limited English Proficiency (LEP).

To review the information DTSC makes available about civil rights and language access, please use the following links:

- **Signage:** DTSC posts information about civil rights, language access and complaint processes in each of its regional offices in a location that is easily viewed by the public.
- **Website:** DTSC maintains civil rights and language access information on its website. E
- **Statements:** DTSC includes statements on outreach documents advising LEP individuals of the availability of translation and interpretation services.
- **Dissemination:** DTSC produces a summary of our Civil Rights and Language Access Policy and services online, and makes the summary available at public events.

Biennial Language Survey Information

- The number of public contact positions.
- The number of qualified bilingual employees in public contact positions, and the languages they speak, other than English.
- The number and percentage of LEP individuals served, broken down by native language.
- The number of anticipated vacancies in public contact positions for the coming year.
- A statement about use of other available options, including contracted telephone-based interpretation services, is serving the language needs of LEP individuals.
- A list of all written materials DTSC must translate or otherwise make accessible to LEP clients.
- A list of materials DTSC has translated and the languages into which they have been translated.
- The number of additional qualified bilingual public contact staff that the agency needs to comply with the California Dymally-Alatorre Bilingual Services Act.

Source: California Government Code §7299.4(b).

Language Access

DTSC is committed to ensuring early, equal, and meaningful access to critical DTSC programs, services, activities, and information to LEP persons. To carry out that commitment, DTSC adopted a Language Access Policy (DTSC-XX-XXX). The purpose of the policy is to eliminate or reduce LEP as a barrier to accessing critical DTSC programs, services, activities, and information and ensure DTSC's compliance with federal and state civil rights laws, including Title VI of Civil Rights Act of 1964, Executive Order 13166, California Government Code section 11135, and the California Dymally-Alatorre Bilingual Services Act.

DTSC's Language Access Plan

This Implementation Plan includes DTSC's Language Access Plan. To eliminate or reduce LEP as a barrier to accessing critical DTSC programs, services, activities, and information, DTSC has undertaken the following general actions:

- **Interpretation Services:** In order to employ a sufficient number of qualified bilingual persons in public contact positions, as defined, to ensure information and services are provided to the public in languages other than English, DTSC actively recruits for

This draft document has not been approved by DTSC and is for discussion purposes only.

bilingual skills in public contact positions. The department provides exams and certifies employees as bilingual; certified bilingual employees are eligible for pay premiums. DTSC also maintains contracts with firms that provide translation/interpretation services at public hearings, public meetings and other events.

- **Language Survey:** DTSC participates in a Biennial Language Survey to identify all non-English language needs and the primary languages of the individuals and communities DTSC serves. As part of the survey, DTSC identifies public contact staff at each field office, and identifies those public contact staff members who are certified in languages other than English, as well as the languages in which they have been certified. Over a 10-day period, public contact staff members at each field office identify and record the primary languages of the constituents they serve in person, over the telephone, or through written correspondence using tally sheets. Each field office then forwards its language survey results to OCR, where the results are tallied and provided to the Personnel Board.
- **Public Participation Manual:** DTSC's updated Public Participation Manual includes expanded provisions to facilitate meaningful public participation by LEP persons related to DTSC cleanup projects, hazardous waste facility permit decisions, enforcement activities, and other DTSC activities as appropriate. DTSC's Public Participation Manual is available on DTSC's website at <https://www.dtsc.ca.gov/LawsRegsPolicies/Policies/PPP/PublicParticipationManual.cfm>.
- **Interpretation & Translation Services:** DTSC makes language access information available to the public to inform LEP persons of DTSC's language access policy and services, including the availability of interpreters and translated materials. Language access information is provided in languages other than English in all DTSC's regional offices, and on DTSC's website. DTSC develops language access outreach materials in languages other than English and works with community groups and organizations to inform LEP individuals of language access assistance that is available. Additionally, if commenters will have limited time for comments, ensuring LEP commenters must have equal time allowing for simultaneous translation or interpretation.
- **Translating and Oral Interpretation of Vital Documents and Information:** DTSC ensures access to all vital documents and information through translation by LEP persons. The department uses a decision-tree approach to identify vital documents and information. The Implementation Plan outlines the overall decision-tree model for the entire department, which is then modified by DTSC's offices, units, and programs to meet their specific needs. Translation of vital documents and information is discussed further, below.

This draft document has not been approved by DTSC and is for discussion purposes only.

- **Incorporating Requirements:** DTSC incorporates federal and state civil rights and language access requirements in all applicable DTSC policies, procedures, bids, assurances, grants, and contracts.
- **Disseminating Requirements:** DTSC disseminates federal and state civil rights and language access requirements to all DTSC contractors, subcontractors.

Translation and Oral Interpretation of Vital Documents and Information

In its language access guidance for federal agencies and recipients of federal funds, the U.S. DOJ provides the following guidance on translation: “Federal agencies may need to identify and translate vital documents to ensure LEP individuals have meaningful access to important written information. Vital written documents include, but are not limited to, consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials, losses, or decreases in benefits or services; notice of disciplinary action; signs; and notices advising LEP individuals of free language assistance services.”³ The United States Environmental Protection Agency (U.S. EPA) also provides guidance regarding the translation of potentially vital documents.

Guidance from the United States Environmental Protection Agency (U.S. EPA) on language access in programs it implements and oversees provides the following guidance on potential vital documents to consider for translation.⁴ In addition, U.S. EPA guidance provides that written translation may include the translation of a short description of a longer document, or the document in its entirety, depending on the circumstances.⁵

Consistent with guidance from both U.S. DOJ and U.S. EPA, DTSC prioritizes the translation and oral interpretation of its vital documents and information. DTSC has considered both U.S. DOJ and U.S. EPA guidance, as well as the requirements of the California Dymally-Alatorre Bilingual Services Act, to prepare a decision-tree approach to identify vital documents and information for translation or oral interpretation that can be utilized on a case-by-case basis. A graphic representation of the decision tree may be found in Appendix G that depicts a broad overview of the general framework that each DTSC unit, office, or program applies in determining whether to translate or orally interpret vital documents and information into languages other than English. Individual DTSC units, offices, or programs may modify this framework to meet the specific their specific needs, including the specific needs of the communities they serve. There may also be project- or document-specific circumstances that warrant that DTSC deviate

³ “Common Language Access Questions, Technical Assistance, and Guidance for Federal Conducted and Federally Assisted Programs,” page U.S. DOJ, August 2011. Page 8

⁴ “Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” U.S. EPA, 2004, FRL-7776-6. Page 35609-10.

⁵ *Ibid.* Page 35607

from this framework and DTSC retains its discretion to determine what vital documents and information necessitate translation or oral interpretation. As needed, the Office of Civil Rights, the Office of Public Participation, the Office of Environmental Justice and Tribal Affairs, and the Office of Legal Affairs will be consulted to assist in this decision-making process.

Generally, the process for identifying vital documents and information for translation or oral interpretation consists of five important steps, all of which are discussed in more detail below:

1. Determining the scope of impact of the project or document.
2. Identifying the “Potentially Interested Community.”
3. Identifying LEP populations and language needs within the Potentially Interested Community.
4. Identifying vital documents and information.
5. Translation and interpretation of vital documents and information.

Determining the scope of impact of the project or document

Critical to assessing the Potentially Interested Community for any project or document, is the determination of the general audience for the document or scope of the project. Specifically, whether the document’s or project’s impacts are statewide, local, or individual. DTSC refers to this as the “scope of impact” for the project or document. Documents or projects with statewide impacts include, for example, complaint forms, regulations, and safer consumer product bulletins. Documents or projects with local impacts include most of the projects overseen and services provided by DTSC to the public, including, but not limited, to those related to permitted hazardous waste facilities and cleanup of contaminated sites. Documents or projects with individual impacts include, for example, correspondence received by DTSC directly from an individual, such as a letter, email or phone call. Projects or documents identified as an individual impact are addressed under the process outlined above and in the Language Access Policy (XXX).

Identifying the Potentially Interested Community

Once the scope of impact of a project or document is determined, DTSC evaluates a comprehensive list of factors to identify the Potentially Interested Community for the project or document. Depending on the identified scope, different resources and factors are the typical focus of DTSC’s consideration. If the scope of impact is statewide DTSC’s assessment of the Potentially Interested Community focuses on Potentially Impacted populations. The factors used to assist in identifying the Potentially Impacted Population includes, but is not limited to: statewide reports; evidence of significant or widespread adverse impact to an LEP population; communications with labor organizations, NGOs and community groups; manufacturer identified subgroups; any existing agreements or settlements with conditions directly affecting

the project, document or population, and; any population impacted by any proposed regulations or initiatives.

When the scope of impact is determined to be local, DTSC first considers whether it has any specialized knowledge or information to assist it in identifying the Potentially Interested Community including, but not limited to: whether there is a community on record as having self-identified as being affected by or interested in the project or document; there is environmental data or analysis that indicate a geographic impact from the project; there was or will be a survey of residents performed as part of the project to identify a geographic scope of interest; and there is any other information received through DTSC's public outreach efforts that indicate that specific individuals or communities are interested in or impacted by the project or document.

DTSC then evaluates whether the Potentially Interested Community should be adjusted or informed by a number of additional factors, including, but not limited to, whether the project, document, or Potentially Interested Community is affected by any DTSC agreements or settlements with conditions directly affecting the project, document, or Potentially Interested Community or DTSC or non-DTSC peer-reviewed special projects, studies, activities, initiatives or special programs. DTSC also evaluates whether any known or identifiable community leaders can be contacted to provide information regarding the Potentially Interested Community, any tribal consultation was conducted by DTSC, and any sensitive land uses—such as residences, hospitals, schools, day care centers, child care facilities, elderly housing, veterans housing, community centers, parks, playgrounds, recreation areas, or convalescent facilities—exist near the project area.

After gathering and evaluating all of this information, DTSC ensures a minimum geographic area is included within the Potentially Interested Community. This is done by ensuring that the identified Potentially Interested Community includes, at minimum, a geographic area that covers at least a ¼ mile perimeter around the outside boundary of the facility or site in all directions. If the Potentially Identified Community is already more expansive than this geographic area, then no change to the Potentially Interested Community is made. If, however, the Potentially Interested Community is smaller than this minimum geographic area, then the Potentially Interested Community is expanded to a ¼ mile perimeter around the outside boundary of the facility or site in all directions.

Identifying LEP populations and language needs within the Potentially Interested Community

After identifying the Potentially Interested Community, DTSC must determine if any LEP populations comprise part of the Potentially Interested Community. As part of this process, the

This draft document has not been approved by DTSC and is for discussion purposes only.

Public Participation Unit and Office of Civil Rights are consulted to assist in accurately identifying LEP populations within the Potentially Interested Community.

For projects or documents with statewide impacts, LEP populations within the Potentially Interested Community are identified by consulting a number of resources, including, but not limited to, DTSC's Biennial Language Survey, State of California demographic information, and the United States Census Report.

For projects or documents with local impacts, LEP populations within the Potentially Interested Community are also identified by consulting a number of resources, including, but not limited to, the American Community Survey, Cal EnviroScreen, local public assistance agencies, community agencies and organizations, local school systems, religious organizations, and legal assistance organizations.

If at least 5% of the Potentially Interested Community or 1,000 individuals within the Potentially Interested Community, whichever is less, are members of a single LEP population for a non-English language group, then a threshold LEP population is present in the Potentially Interested Community. DTSC will translate or orally interpret vital documents and information into each primary language spoken by an LEP population that meets this threshold criterion.⁶

If less than 5% of the Potentially Interested Community or 1,000 individuals within the Potentially Interested Community are members of an LEP population for a non-English language group, then DTSC retains its discretion to translate or orally interpret vital documents and information on a project- or document-specific basis. DTSC will consult with its Public Participation Unit, Office of Civil Rights, and Office of Legal Affairs to determine whether vital documents and information should be translated or orally interpreted.

Identifying vital documents and information

If one or more threshold LEP populations are identified within the Potentially Interested Community, DTSC will provide translation or oral interpretation of vital documents and information for those LEP populations. Each DTSC unit, office, or program has developed a list of presumptive vital documents and information that will always be translated should a threshold LEP population exist within the Potentially Interested Community. For other documents, known as potentially vital documents and information, DTSC will undertake a case-by-case evaluation of whether the vital document or information, in whole or in part, should be translated or orally interpreted. In conducting this analysis, consistent with U.S. EPA and

⁶ *It is important to note that should an LEP population meet the 5% threshold requirement, but the 5% is comprised of 50 individuals or less, then translation of vital documents and information may not be provided. In these instances, DTSC will provide notice to those individuals of their right to receive, upon request, oral interpretation of all vital documents and information free of charge.*

California Environmental Protection Agency guidance, DTSC considers four factors in determining whether a potentially vital document or information should be translated or orally interpreted. These four factors include: (1) the number or proportion of LEP individuals served; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program; and (4) the costs compared to the resources available to the agency.

The number or proportion of LEP individuals served is informed by DTSC's evaluation of whether a threshold LEP population exists within the Potentially Interested Community. The frequency of DTSC's contact with the LEP population in the Potentially Interested Community is assessed by considering a variety of factors, including, but not limited to, contact with LEP persons on other projects within the Potentially Interested Community; the frequency of LEP services utilized or requested by LEP persons within the Potentially Interested Community; and DTSC's Biennial Language survey results. The level of expressed interest in the project is also a key factor for determining the frequency of contact with the LEP population. If the LEP population(s) within the Potentially Interested Community have expressed a high level of interest in the project, their interest will weigh heavily in the determination of frequency of contact.

The nature and importance of the document or information to the Potentially Interested Community includes an evaluation of whether the document or information informs LEP persons of their fundamental rights, privileges, and access to DTSC services. If so, then the document, or portion of the document affecting LEP persons' rights, privileges, and access to DTSC services, will be translated or orally interpreted. If not, then DTSC will evaluate on a case-by-case basis the impact and potential consequences for an LEP individual of not having access to the document or information to determine whether translation or oral interpretation is required.

Cost balancing is the final factor weighed in determining if a document or information is vital. The Office of Civil Rights, Office Public Participation, and the Office of Legal Affairs will be consulted if cost balancing is any part of a basis for not translating or orally interpreting a document or information because the use of cost balancing requires consideration of DTSC-wide resources against anticipated cost.

Translation and interpretation of vital documents and Information

If a document or information is determined to be vital, then DTSC will translate or orally interpret the vital document or information. A determination that a document is vital does not mean that the entirety of the document's contents is considered vital. In instances where the entire document is found to contain vital information, the entire document will be translated or interpreted. When only portions of a document or information are vital, only those portions

will be translated or interpreted, or a summary of those key portions may be sufficient for translation or interpretation of the vital information. The Office of Civil Rights, Office of Public Participation, and the Office of Legal Counsel will be consulted if only a portion of a vital document or information will be translated or orally interpreted.

Performance Metrics and Evaluation

Best Practices That State Agencies Sometimes Use to Serve Clients' Language Needs

- Maintaining a centralized listing of bilingual employees able to assist public contact staff.
- Contracting for interpretation and translation services.
- Maintaining non-English telephone options.
- Establishing a Website that is accessible in non-English languages.
- Posting notifications in multiple languages in public places stating language access rights.
- Developing language services manuals.

Source: California State Auditor Report

DTSC tracks all of the language access program metrics required by the Dymally-Alatorre Act. A list of these metrics is included in the Implementation Plan section on *Metrics and Evaluation*. Further discussion of performance metrics is included in each specific program area.

DTSC developed a check-list to document steps and actions taken to support language access for LEP individuals in its decision-making processes. Each specific program area has a Civil Rights and Language Access check-list for individual projects.

In addition, as detailed further under the Public Participation program discussion, DTSC employs an array of strategies to solicit feedback on the effectiveness of its public engagement strategies, including strategies to support language access for LEP individuals. DTSC's Office of Environmental Justice and Tribal Affairs also supports evaluation of the department's language access strategies. The

understanding gained through all of these avenues informs periodic review and update of the Implementation Plan and Language Access Plan.

External reviews and reports on language access also provide important information about opportunities to improve language access services. In 2010, DTSC was one of 10 state departments included in the California State Auditor's evaluation of state agencies' compliance with the Dymally-Alatorre Bilingual Services Act. While the audit identified room for improvement in compliance across all state agencies, it also found that DTSC was one of the agencies that accurately assessed and reported its language needs and submitted an implementation plan to the State Personnel Board, as required by the Act.

Training

DTSC requires all employees to comply with our Civil Rights Policy and our Language Access Policy. This includes requiring each employee to review the policies and to sign a statement confirming the employee has read and will comply with the policies. DTSC maintains a record of these signed statements.

DTSC also provides training in Civil Rights and Language Access. This training is required for all DTSC employees. Per the DTSC Director's Policy XXXX, employees must comply with DTSC policies regarding Title VI in their day-to-day activities and complete Title VI training every two years. Supervisors and managers ensure employees receive Title VI training every two years.

DTSC will offer Civil Rights and Language Access training via online and in-person by December 2018. The DTSC Civil Rights Officer will track employees' trainings.

In addition to this mandatory training for all staff, the department has developed a Leadership Academy for Supervisors and Managers that includes competency building around core values of diversity and inclusion, to better equip our supervisors and managers to foster a culture of respect among department staff, and to embrace the richness of our diverse population within DTSC and among the communities we serve. DTSC also offers leadership training for Aspiring Leaders. This program emphasizes the development of core values and competencies in our leaders of tomorrow, including the core values of diversity and inclusion. All members of the DTSC Executive Leadership team completed training in Civil Rights, Language Access, and Diversity and Inclusion.

Finally, DTSC offers specific training for staff members in public contact positions. Consistent with U.S. EPA guidance, this training includes:

- Step by step training on how to explain the applicable environmental program regulations to the public in a clear and concise manner;
- Cultural and community relations sensitization;
- How to engage in a dialogue and collaboration, as well as how to build and maintain trust and mutual respect with communities;
- Skills and techniques to enable staff to effectively address community concerns in a clear and concise manner;
- A basic use of available technological communication tools such as the internet, databases, GIS tools and site maps, etc. to help identify and address potential issues in affected communities that may give rise to Title VI concerns; and
- Alternative dispute resolution techniques to enable staff to design and carry out a collaborative and informal process that can help resolve Title VI concerns.

This draft document has not been approved by DTSC and is for discussion purposes only.

DTSC also provides training for key staff (in public contact positions and project managers), as appropriate, to support language access for LEP individuals. Consistent with the guidance from U.S. DOJ and U.S. EPA, DTSC's language access training for key staff includes:

- Thorough understanding of DTSC's Language Access Policy and the procedures in this Implementation Plan to support language access for LEP individuals;
- How to appropriately identify language access needs;
- How staff inform LEP individuals about available language assistance services;
- How to use bilingual staff for LEP services and which staff are authorized to service;
- How staff will procure in-person interpreter services;
- How staff are to respond to telephone calls from LEP individuals;
- How staff will access telephone interpreter services;
- How to work effectively with in-person and telephone interpreters;
- How staff are to respond to correspondence (letters and email) from LEP individuals;
- How to obtain translations of documents;
- How staff will process language access complaints;
- How staff track, and record language preference information;

Data Sources and Tools

DTSC utilizes publicly available data sources and tools to inform and guide our public service, including our understanding of diversity, cultural concerns, vulnerability and language barriers in the communities we serve. Examples of these data and tools include: CalEnviroScreen, Census Data, and the Biennial Survey. Pursuant to our Civil Rights Policy, DTSC maintains a list of publicly available data sources and tools. The list is periodically updated and reviewed annually. The most current version of the list is available on DTSC's website.

Metrics and Evaluation

DTSC is committed to transparent and accountable implementation of our mission. As part of this commitment, we measure and report on our performance implementing our Civil Rights Policy and our Language Access Policy. DTSC tracks and reports on department-wide metrics, as well as program-specific metrics. Program-specific metrics are discussed under *Section V. Specific Program Implementation Steps and Actions*.

On a department-wide basis, DTSC tracks and reports on the following metrics:

Civil Rights Metrics (tracked and reported on annually):

- Number of employees required to complete Civil Rights training

This draft document has not been approved by DTSC and is for discussion purposes only.

- Number of employees who completed Civil Rights training – total
- Number of employees who completed Civil Rights training - online
- Number of employees who completed Civil Rights training - class
- Number of Civil Rights training classes offered
- Number of Civil Rights complaints filed with DTSC
- Number of Civil Rights complaint investigations initiated
- Number of Civil Rights complaint investigations completed
- Average number of days to complete Civil Rights complaint investigation
- Number of completed Civil Rights complaint investigations with findings

Language Access Metrics (tracked and reported on annually/biennially):

- Number of public contact positions
- Number of qualified bilingual employees in public contact positions & languages spoken
- Number of employees reporting proficiency in a language other than English & languages spoken
- Number and percentage of LEP clients served (reported by native language, biennially)
- Number of anticipated vacancies in public contact positions in the coming year (biennially)
- List of other methods available to meet LEP access needs, and number of times utilized
- Number of additional qualified bilingual public contact staff needed to comply with Dymally-Alatorre Bilingual Services Act (biennially)
- Number and type of materials translated, and the languages into which they were translated

Available Reports:

“Statewide Language Survey and Implementation Plan: 2014-15 Report to the Governor and the Legislature,” California Department of Human Resources; February, 2017.

<https://www.calhr.ca.gov/Documents/ocr-lsip-report-2014-15.pdf>

“Dymally-Alatorre Bilingual Services Act,” California State Auditor Report 2010-106, November 2010.

<https://www.bsa.ca.gov/pdfs/reports/2010-106.pdf>

Implementation Timeline

All DTSC staff will receive the training discussed within DTSC’s Civil Rights Policy and Language Access Policy. To ensure the successful incorporation of Language Access and Civil Rights into

all employees' day to day responsibilities, this training will be part of the new employee onboarding procedure starting in 2019. The training explaining these two policies will be developed by December of 2018.

The metrics outlined above are intended to ensure DTSC's transparency to the public. Since portions of these metrics were not gathered prior to the Implementation Plan, the full data on these items will not be immediately available. Existing metrics already collected by DTSC will continue to be provided to the public and the full list of metrics will be available starting in 2020.

Complaints

Any person who believes he or she may have experienced actions or behavior by DTSC or a member of DTSC's staff that violate these policies may submit a complaint to DTSC's Office of Civil Rights. Specific steps to file a complaint with DTSC are provided below, along with an explanation of the process for reviewing complaints, and links to complaint forms.

If you believe that you have been subjected to behavior that violates federal civil rights laws, you may also file a complaint with the United States Environmental Protection Agency's (U.S. EPA) Office of Civil Rights. More information regarding this process is available on U.S. EPA's website at <https://www.epa.gov/ocr>.

Filing a Civil Rights Complaint with DTSC

If you believe you have been subjected to behavior that violates DTSC's Civil Rights Policy (DTSC-XX-XXX) or to other discriminatory treatment in violation of civil rights laws, you may file a complaint with DTSC using DTSC's Civil Rights Complaint Form (Form XXXX), which is available on DTSC's website at http://www.dtsc.ca.gov/LawsRegsPolicies/Polices/upload/DTSC_1443.pdf or by calling DTSC's Office of Civil Rights at (916) 324-3094.⁷ More information regarding DTSC's civil rights violation complaint process is provided below.

A Complainant may file a complaint with DTSC if the Complainant believes that DTSC, including its employees or contractors, has discriminated against the Complainant based on their ethnic group identification, ancestry, religion, age, sex, sexual orientation, color, genetic information, race, national origin, marital status, medical condition, or physical or mental disability.

⁷ The civil rights violation complaint process outlined in this policy is for non-DTSC employees. DTSC employees alleging a civil rights violation may also file a complaint with the Office of Civil Rights with Form 1066. Additional information for DTSC employees regarding the civil rights violation complaint process is available from the Office of Civil Rights.

This draft document has not been approved by DTSC and is for discussion purposes only.

The complaint process outlined in this policy applies for all allegations of violations of civil rights laws against DTSC, including its employees and contractors, including in:

- DTSC's review of hazardous waste facility permit applications;
- DTSC hazardous waste facility permit decisions, including appeals; and
- DTSC corrective action or cleanup decisions.

The Complainant may use DTSC's Civil Rights Complaint Form (Form XXXX) to submit his or her complaint to DTSC via email at ocr@dtsc.ca.gov, by facsimile at (916) 322-2844, or by mail to:

Attn: Office of Civil Rights
Department of Toxic Substances Control
1001 "I" Street, 12th Floor
Sacramento, CA 95814

The Complainant may also file a complaint by submitting a written, signed, and dated statement to DTSC. The written statement must:

- Provide the Complainant's contact information, including current street address, telephone number, and, if available, email address;
- Provide a detailed description of the alleged discriminatory act(s);
- Provide all known information that identifies the individual that committed the alleged discriminatory act(s), including, if known, whether the individual is a DTSC employee or a DTSC contractor or subcontractor;
- Identify the Complainant as a person possessing a protected characteristic who was allegedly discriminated against or a person that is authorized to represent a person or class of people who were allegedly discriminated against; and
- Demonstrates the timely filing of the complaint.

The written statement may be submitted to DTSC in the same manner as DTSC's Civil Rights Complaint Form (see above).

The Complainant must ensure that his or her complaint is timely. To be timely, all complaints must be filed with DTSC no later than 365 days after:

- The date of the alleged act of discrimination; or,
- The date when the Complainant became aware of the alleged discrimination; or,
- The date of the last discrimination, if the same conduct continued over a course of time.

DTSC Review of Civil Rights Complaints

DTSC will review all written complaints to determine whether the matter is within DTSC's jurisdiction based on whether:

- The Complainant has provided a Civil Rights Complaint Form or other written, signed, and dated statement, as described above;
- The Complainant who suffered the alleged discrimination has a protected characteristic or is authorized to represent a person or specific protected class of people who were allegedly discriminated against based on a protected characteristic;
- The complaint is timely submitted;
- The complaint identifies the individual that committed the alleged discriminatory act(s), including, if known, whether the individual is a DTSC employee or a DTSC contractor or subcontractor; and
- The complaint provides a detailed description of the alleged act(s) that the Complainant believes are discriminatory.

DTSC will acknowledge receipt of the complaint within 20 business days of receiving the complaint. Within 30 calendar days of acknowledging receipt of the complaint, DTSC will provide the Complainant with written notice of whether DTSC: (1) has jurisdiction and accepts the complaint for investigation; (2) rejects the complaint; (3) or refers the complaint to another appropriate agency.

If DTSC determines it has jurisdiction and accepts a complaint for investigation, DTSC will assign an investigator to the complaint within five (5) business days of making this determination.

Where the complainant has articulated facts that do not appear discriminatory but warrant further review, DTSC, at its discretion, may forward the complaint to a party within DTSC or outside of DTSC for action. DTSC will inform the Complainant, either verbally or in writing, before forwarding a complaint.

DTSC's Investigation of Civil Rights Complaints

When DTSC has accepted a complaint for investigation, it will conduct a neutral and thorough investigation into the allegations. Upon completion of its investigation, DTSC will reach a determination on the merits of the complaint. DTSC will inform the Complainant in writing of its determination on the merits of the discrimination complaint.

Confidentiality of Civil Rights Complaints Filed with DTSC

DTSC strives to protect the confidentiality of the Complainant and all participants in the civil rights complaint process to the greatest extent possible and as authorized by law. The nature of

This draft document has not been approved by DTSC and is for discussion purposes only.

this process, however, does not permit absolute confidentiality. The Office of Civil Rights may release information as necessary to resolve a complaint. DTSC may release information provided during the complaint process to appropriate DTSC personnel and outside agencies as required by law.

Filing a Language Access Complaint with DTSC

If you believe DTSC has not been able to provide you with satisfactory language access services, you may submit a Communication Assistance Resolution Form (Form 1602) with DTSC's Office of Civil Rights.

DTSC's Communication Assistance Resolution Form is also available on DTSC's website at https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602.pdf (English) or https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602E.pdf (Spanish) or by calling DTSC's Office of Civil Rights at (916) 324-3094.

You may also contact the State Personnel Board at (866) 889-3278 regarding any concerns you have regarding DTSC's language access services.

Additional Resources

- DTSC's Communication Assistance Resolution Form (Form 1602):
https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602.pdf (English)
https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602E.pdf (Spanish)
- DTSC's Complaint Form for Denial of Services:
https://www.dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1443.pdf
- DTSC's Public Participation Manual:
<https://dtsc.ca.gov/LawsRegsPolicies/Policies/PPP/upload/DTSC-PublicParticipationManual.pdf>.

Questions or Inquiries

Questions or inquiries about DTSC's Civil Rights Policy or about our Language Access Policy should be directed to DTSC's Office of Civil Rights.

Contact the Office of Civil Rights by telephone at:

(916) 324-3094

email at: ocr@dtsc.ca.gov

facsimile (FAX) at: (916) 322-2844

This draft document has not been approved by DTSC and is for discussion purposes only.

Written correspondence to the Office of Civil Rights should be sent to following address:

Attn: Office of Civil Rights
Department of Toxic Substances Control
1001 "I" Street, 12th Floor
Sacramento, CA 95814

DRAFT

Specific Program Implementation

In addition to department-wide implementation strategies and metrics, DTSC has developed program-specific steps and actions to ensure DTSC compliance with federal and state civil rights laws, regulations, and policies. The program-specific steps and actions also include implementation strategies to ensure early, equal and meaningful engagement for all people, including LEP individuals.

This section of the Implementation Plan is focused on seven principle program areas: Permitting, Compliance Inspections, Corrective Action, Military Sites, Other Site Mitigation and Cleanup Activities, Rule Development, and Public Participation. Because public participation is a critical component of ensuring DTSC's compliance with civil rights and language access laws, regulations, and policies, public participation is discussed in each of the individual program areas and as a program area in and of itself.

For each program area, the Implementation Plan provides an overview of the program itself, and then discusses key activities and decisions for which public input is required, as well as the steps DTSC will take to ensure that input is early, equal, and meaningful.

For an in in-depth picture of the process overview for each program, please see Appendix E, which describe exact roles and activities that each program engages in within DTSC. The identification and translation of vital documents and information is specifically addressed, using a decision-tree approach available in Appendix F. There is also a summary of metrics tracked and reported to assess and assure full and effective implementation of DTSC's Civil Rights Policy and Language Access Policy.

Permitting

DTSC's Permitting Division is a division of the Hazardous Waste Management Program (HWMP). Through the Permitting Division, DTSC protects Californians and the environment from toxic harm by making timely, enforceable, and protective permit decisions for the operation of hazardous waste facilities in accordance with applicable laws and grounded in and supported by sound science. DTSC will also seek to ensure that environmental justice concerns are fully considered in permitting decisions and in requiring terms and conditions in permits DTSC issues for the management and disposal of hazardous waste.

Among other activities, the Permitting Division reviews applications for hazardous waste facility permits required under the federal Resource Conservation and Recovery Act (RCRA), as well as non-RCRA hazardous waste permit applications, to ensure safe design and operation of

hazardous waste facilities in California.⁸ A hazardous waste permit granted by DTSC allows a facility to transfer, treat, store, or dispose of hazardous waste. Presently there are 109 permitted facilities. The hazardous waste facility permit process is described in more detail in Appendix E. Additional information regarding DTSC's hazardous waste permit process is available on DTSC's website at <http://www.dtsc.ca.gov/HazardousWaste/Permits.cfm>.

Public Participation in Permitting

DTSC performs public outreach and involves public in the permitting process in several key steps of the permitting process as mentioned above. Key elements of the public outreach process are further described in the following subsections.

Community Assessment

DTSC assesses the community at the beginning of each permitting project, to identify community characteristics, such as language needs, sensitive receptors, etc. The Community Assessment is also used to determine community interest in the project, and provide a basis for planning and scoping public participation activities. The Public Participation section of the Implementation Plan, beginning on page 56, provides additional discussion of the types of community assessment and the access considerations.

Assessment of Health Risks, Impacts and Vulnerability

In the current regulatory context, DTSC may consider a human health risk assessment as part of its review of an application for a hazardous waste facility permit. DTSC requires, as a matter of policy, that human health risk assessments be based on toxicity criteria that best reflect the vulnerabilities of California's diverse population.⁹ As part of the community assessment for a hazardous waste permit facility application, DTSC may identify factors that could contribute to community vulnerability. A human health risk assessment submitted as part of a hazardous waste facility permit application would be made available to the public for review and comment before DTSC proposed a permit decision.

Cumulative impacts and community vulnerability are a developing area of science and there are no established procedures or standards for these evaluations. DTSC is pursuing broad participation in the scoping and development of an approach for assessing cumulative impacts

⁸ *The Permitting Division also supports DTSC's Enforcement and Emergency Response Division program to ensure compliance with hazardous waste facility permit conditions. The Permitting Division also works closely with U.S. EPA to fulfill reporting obligations as required by RCRA and the Government Performance and Results Act (GPRA).*

⁹ *This policy has been incorporated into a proposed regulation for Toxicity Criteria (insert OAL reference).*

This draft document has not been approved by DTSC and is for discussion purposes only.

and community vulnerability, gathering input from academia, government, business and non-governmental organizations on their recent developments and ongoing work.

CEQA

As discussed above, CEQA provides the public with information about, and an opportunity to comment on, potential environmental impacts of a proposed project, actions that could mitigate such impacts, alternatives to the project that were considered. Through the CEQA process, the public must be informed and provided an opportunity to comment on the scope of the environmental impact analysis for the proposed project, and then on the analysis itself. The Public Participation section of this Implementation Plan, beginning on page 56, provides additional discussion of access considerations for public meetings.

Proposed Permit Decisions

Public participation in proposed permit decisions was discussed as part of Phase 5 of the Hazardous Waste Facility Permit Process Overview. The Public Participation section of this Implementation Plan, beginning on page 56, provides additional discussion of access considerations for public meetings and document availability on DTSC's website.

Appeals

Public participation in the appeal process for hazardous waste facility permits was discussed as part of Phase 6 of the Hazardous Waste Facility Permit Process Overview. The Public Participation section of this Implementation Plan, beginning on page 56, provides additional discussion of access considerations for public hearings.

Data Sources and Tools

The Permitting Division utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with local impacts described in Appendix F to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan.

In addition, information gathered through the community assessment will be reviewed and considered.

Identifying Vital Documents

The Permitting Division follows the general framework for translation and interpretation of vital documents described in Appendix F. The list of documents the Permitting Division routinely makes available to the public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will

always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix G, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

- *Notice of receipt of permit application
- Community profile
- Notice of Deficiency
- *Notice of draft permit decision and public comment period
- *Notices of public meetings, workshops, or hearings
- *Community updates
- *Notice of final permit decision
- Responses to public comments
- Statement of basis
- Land Use Covenants
- CEQA document (e.g., Environmental Impact Report)
- Petition for Appeal
- *Notice of Decision to Grant Appeal Review
- *Civil Rights Program Project Checklist
- Public Participation Plan
- Permit application
- Applicant's response to Notice of Deficiency
- Draft permit
- Compliance history report
- Transcription of public hearings
- Final permit
- Public comments
- Health Risk Assessment
- CEQA Notices of Preparation
- CEQA Statement of Overriding Considerations
- Appeal decision

For each permitting project, the Permitting Project Manager, in consultation with the Public Participation specialist, is responsible for identifying potentially vital documents, and ensuring the process for evaluating the particular application for a hazardous waste facility permit complies with DTSC's policies and this Implementation Plan.

Civil Rights and Language Access Metrics and Evaluation

For each permitting project, the Permitting Project Manager, in consultation with the Public Participation specialist, and the Office of Civil Rights, as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during the hazardous waste facility permitting process. A goal of this plan is to enable overburdened communities to have full and meaningful access to DTSC's permitting process and to develop permits that address environmental justice

issues to the greatest extent practicable. This this end, the Permitting Project Manager will document DTSC's compliance with this Implementation Plan for each project by completing a Civil Rights Program Project Checklist located in Appendix G.

Compliance Inspections

DTSC enforces California's Hazardous Waste Control Law by monitoring hazardous waste transfer, storage, treatment, and disposal and taking appropriate action against violators. DTSC enforcement program consists of two divisions responsible for enforcing California's hazardous waste law: the Enforcement and Emergency Response Division (EERD) and the Office of Criminal Investigations (OCI).¹⁰

Because of the confidentiality of criminal investigations conducted by OCI, this section focuses on EERD's investigation and enforcement process and compliance with civil rights and language access laws, regulations, and policies.

EERD conducts compliance inspections, targeted compliance inspections, complaint investigations, and other civil and criminal investigations. In addition to inspections of permitted hazardous waste facilities, EERD inspects collectors and recyclers of electronic waste under a Memorandum of Understanding (MOU) between DTSC and CalRecycle. EERD inspects hazardous waste transporters to ensure that waste is properly manifested and safely transported from its point of generation to a facility permitted to recycle or landfill hazardous waste. EERD also inspects shipments of hazardous wastes a Ports of Entry in the California-Mexico border area, and reviews import-export notifications.

EERD is also responsible for enforcing cleanup of hazardous substance release sites, laws concerning toxics in packaging, bans on toxic substances in consumer products, and ensuring

¹⁰ DTSC shares its enforcement responsibility with local agencies called Certified Unified Program Agencies (CUPAs). California law authorizes CUPAs to enforce California's laws as they apply to generators of hazardous waste. While CUPAs have primary authority over generators, DTSC retains oversight and can directly enforce compliance where appropriate. The Secretary of the California Environmental Protection Agency (CalEPA) and DTSC, along with the California Office of Emergency Services, the Office of the State Fire Marshall, the State Water Resources Control Board, conduct a program evaluation of each CUPA every three years to certify their ability to carry out their enforcement mandates.

There are currently 83 CUPAs overseeing 83,000 hazardous waste generators in the State of California. DTSC serves as the CUPA in Imperial and Trinity counties and implements the following six program areas in those counties:

- Hazardous Waste Generator and Tiered Permitting Program
- Hazardous Materials Release Response Plans and Inventories
- Hazardous Materials Release Response Plans and Inventory Program
- California Accident Release Prevention
- Underground Storage Tanks
- Aboveground Petroleum Storage Act

proper disposal of universal wastes which include hazardous wastes that are widely produced by households and many types of businesses.

EERD also conducts investigations based on complaints from the public and anonymous sources received through the CalEPA Online Complaint System (discussed below) and the DTSC Hazardous Waste Alert Hotline. Depending on the nature of the complaint, DTSC may investigate the complaint itself or refer the complaint to another agency for investigation. DTSC may also initiate industry-wide evaluations, as it did with metal recyclers in 2011 and in 2015, to ensure that treatment of waste is fully protective of human health and the environment.

DTSC issues a Summary of Violations when EERD identifies violations through an inspection or investigation. Depending on the nature of the violation discovered, the case may be resolved civilly, criminally, or administratively. Resolution requires the facility to return to compliance and pay civil penalties.

In resolving a violation, DTSC may also require the facility to conduct a Supplemental Environmental Project (SEP). A SEP is a project undertaken by a defendant, as part of a settlement of an enforcement action, that improves the local environment or public health. A SEP may offset a portion of a penalty, and must go beyond mere compliance with environmental laws. A copy of DTSC's SEP Policy can be found here:

http://www.dtsc.ca.gov/GetInvolved/EnvironmentalJustice/upload/DTSC_SEP_Policy_Final_05-05-2016_for_web.pdf. Violations committed with criminal intent may result in imprisonment.

Public Participation in Compliance Inspections

EERD considers engaging public participation during compliance inspections an important function of DTSC's role in protecting the public and environment. To ensure public concerns are addressed, EERD solicits community input to help prioritize future compliance inspections. EERD also works to identify violations affecting neighborhoods, review complaints submitted through the CalEPA Environmental Complaint System, and DTSC Hazardous Waste Alert Hotline.

Solicitation of Priorities

EERD has drafted a public engagement strategy to encourage community engagement in program activities. As part of the strategy, EERD will solicit public input each year to inform priorities for the upcoming year. While the use of public participation is limited for regularly scheduled inspections, community input can be valuable in identifying industry sectors or and geographic areas where compliance rates are poor and may result in increased exposure to the

This draft document has not been approved by DTSC and is for discussion purposes only.

surrounding communities. Community input helped identify the metal recycling and hazardous waste transport sectors for focused compliance initiatives.

DTSC is also an active participant in the CalEPA Environmental Justice Task Force. The Environmental Justice Task Force coordinates the compliance and enforcement work of CalEPA's boards, departments, and offices, including DTSC, in areas of California that are burdened by multiple sources of pollution and are disproportionately vulnerable to its effects.

A type of Community Assessment is performed as part of the planning of the Cal/EPA Environmental Justice Task Force initiatives. More information regarding CalEPA's Environmental Justice Program and Environmental Justice can be found on CalEPA's website at:

<http://calepa.ca.gov/EnvJustice/> and <http://calepa.ca.gov/enforcement/environmental-justice-compliance-and-enforcement-task-force/>.

Additional information regarding DTSC's Environmental Justice Program can be found on DTSC's website at <https://dtsc.ca.gov/GetInvolved/EnvironmentalJustice/environmentaljustice.cfm>.

Identifying Violations Affecting Neighborhoods (IVAN)

DTSC has been involved in the Identifying Violations Affecting Neighborhoods (IVAN) program since its inception in July 2010. IVAN is a community-based enforcement and monitoring network. The IVAN program is based on an online reporting platform tailored to the needs of the community residents who participate. There are IVAN task forces active in seven communities throughout the State of California. These communities include Imperial Valley, Kern County, Fresno, Coachella, Wilmington, Bayview Hunters Point, and Kings. IVAN may be accessed at <http://ivanonline.org/>.

IVAN facilitates a resident's ability to report environmental harms or concerns in the local community. IVAN uses information submitted by individuals to monitor and track potential environmental violations. EERD supports community task forces and Environmental Justice monitoring and reporting networks. EERD's participation varies from attending meetings to active engagement. Because DTSC is the CUPA for Imperial County, DTSC acts as the regulatory problem solver in the Imperial Valley IVAN Program. Additional information regarding DTSC's involvement in IVAN is available on DTSC's website at

<https://www.dtsc.ca.gov/GetInvolved/EnvironmentalJustice/IVAN.cfm>.

CalEPA Environmental Complaint System

The CalEPA Online Complaint System can be used by anyone to easily report an environmental problem. The website allows the public to file an environmental complaint on line in English or Spanish. CalEPA and DTSC can use the system to identify communities for enhanced enforcement actions. The website is available to public at:

https://calepacomplaints.secure.force.com/complaints/complaint?language=en_US

DTSC's Hazardous Waste Alert Hotline

Complaints regarding hazardous waste facilities, and other hazardous waste issues may also be submitted by calling DTSC's Hazardous Waste Alert Hotline at (800) 698-6942 or (800) 69-TOXIC. The Hotline is monitored during regular business hours by DTSC enforcement staff located in Northern and Southern California. After hours, and when the staff are with another caller, Hotline calls are directed to a voicemail system.

Data Sources and Tools

EERD utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with local impacts to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan.

In addition, the following information may be reviewed and considered, as applicable:

- EnviroStor
- CalEPA Online Complaint System
- California Environmental Reporting System (CERS)
- Information from a Community Assessment, if available

Identifying Vital Documents

EERD follows the general framework for translation and interpretation of vital documents described in Appendix F. The list of documents EERD routinely makes available to the public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix G, when a threshold

This draft document has not been approved by DTSC and is for discussion purposes only.

LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

- Community Assessment
- Summary of Observations
- Summary of Violations
- Notice of Violation
- Return to Compliance Documents
- *Documents Related to SEPs
- Legal complaints for civil penalties and injunctive relief
- Stipulated judgments or other judicially-approved settlement documents
- Compliance History Report
- *How to File a Complaint
- Complaint Response Inspection Report
- Inspection Report
- Final Administrative Orders
- Unilateral Administrative Orders
- Administrative Settlement Agreements
- *Civil Rights Program Project Checklist

Civil Rights Metrics and Evaluation

For each compliance inspection, including any subsequent enforcement action, the Inspector, in consultation with his or her supervisor and the Public Participation specialist, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during the compliance inspection process. The Inspector will document DTSC's compliance with this Implementation Plan for each project by completing a Compliance Inspection Civil Rights and Language Access and Enforcement Action Checklist in Appendix G.

Corrective Action

Corrective Action refers to actions taken by the owner or operator of a permitted hazardous waste facility to investigate and clean up hazardous waste releases, onsite or offsite, from operations at the facility. The Federal Resource Conservation and Recovery Act (RCRA) requires facilities that treat, store or dispose of hazardous wastes to investigate and clean up hazardous releases into soil, ground water, surface water and air. DTSC is authorized to require corrective action at hazardous waste facilities under the Hazardous Waste Control Law in Chapter 6.5 of the Health and Safety Code. Corrective Action specifically applies to facilities subject to

This draft document has not been approved by DTSC and is for discussion purposes only.

hazardous waste permitting requirements under RCRA or state hazardous waste laws, and is principally implemented through hazardous waste facility permits. Please see the Permitting section of this Implementation Plan for a more complete discussion of hazardous waste permitting.

Corrective Action is a sequential process with five clearly defined steps that are discussed below. The steps are very similar to the steps in the cleanup processes under the federal Comprehensive Response, Compensation and Liability Act (CERCLA), which is also referred to as the Superfund Law. However, the steps in the Corrective Action process have different names.

Public Participation in Corrective Action

Public participation opportunities are integrated throughout the Corrective Action process. Key opportunities for public participation are summarized below and in Appendix E.

RFA, RFI, and CMS

When initial analysis shows that contamination on or around a hazardous waste facility will require cleanup, DTSC performs a baseline community survey along with a community profile. These steps may occur during the RFA, or as part of the RFI/CMS.

- A Baseline Community Survey informs the public about the facility and DTSC's intent to investigate, and determines the level of public interest, solicits and evaluates concerns, and is used by DTSC to identify strategies for public involvement.
- The Community Profile characterizes the community, including language access needs.
- The Baseline Community Survey and the Community Profile are further described in the Public Participation section of this Implementation Plan, as well as in the Public Participation Manual.

The RFI is critical step in the Corrective Action process for public participation. As soon as possible after DTSC determines an RFI is needed at a facility, DTSC will:

- Prepare and distribute a Baseline Community Survey, using a transmittal letter or fact sheet. When the survey results show community interest, DTSC will provide project updates through additional fact sheets. The transmittal letter or fact sheet will be made available in languages other than English, if appropriate.
- Place the project documents on DTSC's EnviroStor website.
- Distribute fact sheets to the mailing list for the facility based on the level of interest. Fact sheets describe the status of the RFI and plans for significant activities. The fact sheet is written in non-technical language and is considered a presumptively vital

This draft document has not been approved by DTSC and is for discussion purposes only.

document and translated into other languages as appropriate based on the identified Potentially Interested Community.

- Plan and conduct community meetings or workshops, with translators at each meeting to assist non-English speakers.
- Establish information repositories in the identified community.

CEQA

The CEQA process also provides for public participation in Corrective Action decisions. The DTSC project manager works closely with the CEQA unit to determine what type of CEQA documentation is needed. Key points for public participation include:

- Scoping meeting to solicit input into the scope of the analysis of potential environmental impacts under CEQA if preparation of an Environmental Impact Report (EIR) is anticipated.
- Public review of draft environmental documents prepared for the project for a minimum of 30 days.
- If a draft EIR is prepared, a public meeting is held (the public meeting for the draft remedy may be held at the same time), and the public comment period is extended to 45 days.
- All comments received by DTSC within the comment period on the CEQA document are carefully considered, and a written response to all comments is provided.

Remedy Selection

Draft Remedy Selection. The draft Remedy Selection (RS) contains a summary of the RFI and CMS, a summary of the human health and ecological risk assessments, and presents the proposed remedy for the facility. During the time interval between the draft Remedy Selection and the final Statement of Basis, numerous public participation activities occur including the following:

- Provide a 30-day public comment period for the draft Remedy Selection (and the companion CEQA document, or 45 days an EIR is prepared). These may be determined to be vital documents on a case by case basis and translated based on the Potentially Interested Community and identified LEP populations.
- Ensure the draft Remedy Selection and supporting documents are in the local public repositories.
- Provide public notice in a newspaper language(s) appropriate for the affected community as determined by the community assessment. This public notice is considered a presumptively vital document.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Prepare and distribute a fact sheet to the mailing list in languages appropriate to the affected community as determined by the community assessment. This is considered a presumptively vital document. The fact sheet describes the draft remedy and announces the beginning and end public comment period, as well as the date, time and location of the public meeting.
- Notify local and affected agencies by mailing the fact sheet to the appropriate contact people identified in the community assessment.
- Notify the owners of the property contiguous to the facility. This is considered a presumptively vital document and available for translation for LEP individuals.
- If indicated by public interest, hold a public meeting or public hearing within the community in an appropriate location to discuss and receive comments on the draft RS and CEQA documents. If the community assessment indicates that LEP individuals will attend, translators are made available.
- If a public hearing is held based on indicated public interest, DTSC will provide a taped or written transcript, including a record of comments received during the public hearing.
- See also the Permitting Section beginning on page # of this Implementation Plan for a discussion of that part of the process.

Final Statement of Basis. Following the public comment period, DTSC selects the final remedy for the facility and informs the public of the final selected remedy. The following public participation activities occur:

- A written response to comments received during the public comment period is provided to the public.
- A public notice of the final selected remedy is placed in a newspaper of general circulation. This is considered a presumptively vital document.

Corrective Measures Implementation

In the last phase of the remedial process, the cleanup remedy is designed, built, and implemented. The following public participation activities may occur:

- Work notifications or fact sheets may be distributed. This is considered a presumptive vital document.
- A community briefing may occur. If the community survey indicates LEP individuals may attend, translators in the identified languages are onsite during the meeting to interpret for LEP individuals.
- A public notice is placed in newspaper of general circulation when DTSC determines that corrective action is complete.

Data Sources and Tools

Corrective Action utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with local impacts to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan.

In addition, information gathered through the Community Profile, the Baseline Community Survey, and community interviews will be reviewed and considered.

Identifying Vital Documents

As part of the Corrective action process, the Cleanup Program follows the general framework for translation and interpretation of vital documents described in Appendix F. The list of Corrective Action documents routinely made available to the public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix G, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

- Baseline Community Survey
- Community Profile
- *Public Participation Plan (when prepared)
- *Community Updates
- *Notices of public meetings and workshops
- *Notice of CEQA documents
- *Notice of Proposed Remedy
- *Notice of Final Statement of Basis
- *Notices of Public Comment Periods
- Public Comments and Responses to Public Comments
- RCRA Facility Assessment Report
- RCRA Facility Investigation Report
- Corrective Measures Study
- Human Health & Ecological Risk Assessments
- Draft Remedy Selection and Statement of Basis
- CEQA documents
- Final Statement of Basis
- Land Use Covenants
- *Civil Rights Program - Corrective Action Project Checklist

For each project, the Cleanup Project Manager, in consultation with the Public Participation specialist, is responsible for identifying potentially vital documents, and ensuring the

This draft document has not been approved by DTSC and is for discussion purposes only.

process for evaluating the particular application for a hazardous waste facility permit complies with DTSC's policies and this Implementation Plan.

Civil Rights Metrics and Evaluation

For each corrective action, the Corrective Action Project Manager, in consultation with his or her supervisor and the Public Participation specialist, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during the corrective action process. The Corrective Action Project Manager will document DTSC's compliance with this Implementation Plan for each project by completing a DTSC Brownfields and Environmental Restoration Program Civil Rights and Language Access Corrective Action Project Checklist in Appendix G.

Military Sites

DTSC's Cleanup Program oversees site remediation activities at active, closed, and historic military installations. Each military service branch within the Department of Defense (DOD) is delegated authority to investigate and remediate contaminated sites pursuant to the federal CERCLA. Presidential Executive Order 12580 formally delegates CERCLA authority to the military services, which are responsible for identifying hazardous substance release sites at their installations and seeking funding from Congress to address those sites. The Army Corps of Engineers is the DOD agent responsible for historic military facilities, commonly known as Formerly Used Defense Sites (FUDS).

A number of military facilities have been included on the federal National Priorities List (NPL). At those facilities, U.S. EPA has final remedy selection authority. For sites that are not on the NPL, the military selects the remedy. DOD policy requires the military installation, prior to selecting a remedy, to seek the concurrence of state regulatory agencies with the remedy.

In concurring with military remedies, DTSC's ensures that the investigations and remedy evaluations employ sound science and engineering methods and practices; that the public and local communities are afforded the opportunity to participate in the remedy selection process; and that the proposed remedy complies with the Hazardous Substances Act (H&S Code, Chapter 6.8) and Hazardous Waste Control Law (H&S Code Chapter 6.5). DTSC coordinates with other state agencies to ensure that the military complies with the laws and regulations enforced by those agencies. The other agencies include the State Water Resources Control Board, nine Regional Water Quality Control Boards, California Department of Fish & Wildlife, and California Department of Public Health.

Oversight for DTSC and other state agencies is funded by DOD under a cooperative agreement pursuant to the Defense State Memorandum of Agreement (DSMOA). A cooperative agreement grant is awarded semiannually to the state and is based upon each state agency's estimate of the resources needed to oversee the military's efforts. The DSMOA also provides for a dispute resolution process in the event the state and the military disagree over a proposed remedy.

The Corps of Engineers and the military service branches must follow the CERCLA process for investigating and remediating contaminated sites. The process steps are provided summarized below.

Public Participation at Military Sites

The military service branch or Army Corps of Engineers (for FUDS) is responsible for conducting public participation throughout a site's investigation, remedy selection process, and implementation activities.

1. PA/SI, RI/FS and Risk Assessments

Baseline community surveys are used to inform the public of the presence of hazardous substance sites within their community, determine the level of public interest, solicit and evaluate concerns, and identify how to involve the public in the selection process. DTSC ensures the military conducts the following activities in its public participation efforts:

- Prepare and distribute a Baseline Community Survey under a transmittal letter or fact sheet. When the survey results show community interest, fact sheets are mailed to community members during the investigation and cleanup process. With military concurrence, these fact sheets are made available in languages other than English when necessary. DTSC and the military use the survey to help identify language needs, sensitive uses, and population.
- Conduct community interviews. When the military conducts community interviews with persons of limited English proficiency (LEP), DTSC works with the military to find a translator, often within DTSC staff.
- Prepare a public participation plan with community involvement. The military prepares a public participation plan that describes how the community shall be involved in the site investigation and remediation process. The plan contains site-specific community involvement strategies and is made available to the public during early phases of the RI/FS. This is considered a presumptively vital document.
- The military establishes information repositories in the impacted community in consultation with DTSC.

This draft document has not been approved by DTSC and is for discussion purposes only.

- The military and regulatory agencies place project documents on their websites. This includes DTSC, military, and, for NPL installations, U.S. EPA websites.
- The military distributes fact sheets to the installation's mailing list based on the level of community interest as documented in the Public Participation Plan. The fact sheet is written in non-technical language and is considered a presumptively vital document.
- The military and DTSC (and U.S. EPA for NPL installations) plan and conduct community meetings or workshops, with translators at each meeting to assist non-English speakers.
- The military may create a Restoration Advisory Board (RAB) for closing or closed military installations with active cleanup programs. The RAB is composed of members of the local community and representatives from the military and regulatory oversight agencies and provides a forum for exchange of information and partnership among citizens, the installation, and regulatory agencies. RAB meetings also offer an opportunity for communities to provide input to the cleanup process.

2. Draft Remedy Selection Plan

When the military intends to select a remedy, it prepares a Proposed Plan/draft Remedial Action Plan (Proposed Plan) that describes that remedy. The Proposed Plan contains a summary of the remedial investigation and feasibility study, health and ecological risks associated with the site, and alternate remedies considered. The military must make the Proposed Plan available to the public as follows:

- Make available in public repositories for a 30-day public comment period the Proposed Plan and DTSC's related CEQA documents. If the CEQA document includes an Environmental Impact Report, the public comment period is 45 days. These are not presumptively considered vital documents but may be made available for translation for LEP individuals if determined to be vital by the Program in consultation with OPP.
- Provide public notice in a newspaper language(s) appropriate for the affected community as determined by the community assessment. This public notice is considered a presumptively vital document.
- The military's Proposed Plan is distributed to the mailing list as a fact sheet. The fact sheet describes the proposed remedy, announces the public comment period, and the public meeting location, date, and time. This is considered a presumptively vital document. The military translates the fact sheet in languages appropriate to the affected community as determined by the community assessment.
- The military posts notices at the site location. This is considered a presumptively vital document.
- The military notifies local and affected agencies by mailing the fact sheet to the appropriate contact people identified in the community assessment.
- The military notifies the owners of the property contiguous to the installation. This is considered a presumptively vital document.

This draft document has not been approved by DTSC and is for discussion purposes only.

- The military or U.S. EPA holds at least one public meeting within the community in an appropriate location to discuss and receive comments on the draft Proposed Plan and CEQA or NEPA documents. If the community assessment indicates that LEP individuals will attend, translators are made available.
- The military or U.S. EPA provides a taped or written transImplementation Plant, including a record of comments received.

Following the public comment period, the military or, for NPL Facilities, U.S. EPA, selects the final remedy for the site with state concurrence. The selected remedy is documented in a Record of Decision (ROD) signed by the military, state agencies, and, for NPL installations, U.S. EPA. The military informs the public of the final selected remedy.

Any fundamental changes from the remedy in the proposed plan must be subject to another 30-day public comment period, including public notice and a public meeting held during the public comment period. Such changes at non-NPL military sites may trigger a new CEQA analysis by DTSC to determine if the changes cause impacts not previously considered. The associated CEQA documents must then also be public noticed alongside the revised Proposed Plan. Upon the close of the public comment period, the following activities occur:

- Provide to the public a written response to comments received during the public comment period.
- A public notice of the final selected remedy is placed in a newspaper of general circulation. This is considered a presumptively vital document.
- If necessary, the Public Participation plan for the site is updated.

3. Remedy Design and Implementation

In the last phase of the remedial process, the cleanup remedy is selected, designed, and implemented. The following public participation activities may occur:

- Work notifications or fact sheets may be distributed. This is considered a presumptively vital document.
- A community briefing may occur. If the community survey indicates LEP individuals may attend, translators in the identified languages are onsite during the meeting to provide translation.
- A final letter is sent out to all persons on the mailing list at the completion of remediation that describes the final remediation and any ongoing operations or maintenance. This is considered a presumptively vital document.

4. CEQA/NEPA

This draft document has not been approved by DTSC and is for discussion purposes only.

At NPL military sites the U.S. EPA and the military are lead agencies and are not required to go through the CEQA process. They are required to go through the National Environmental Policy Act (NEPA) process if the property is undergoing closure. NEPA is similar to CEQA. At non-NPL military facilities, DTSC does go through the CEQA process.

The CEQA and NEPA process provides for public involvement, and the necessary environmental review process is usually started during the RI or FS stage of the site mitigation process. For non-NPL military facilities, the DTSC project manager works closely with the CEQA unit to determine what type of CEQA documentation is needed. In the case of an NPL site DTSC will review and comment on the NEPA documents. If an Environmental Impact Report (EIR) is issued, a public meeting is held coincident with the public meeting for the remedy selection document, and the public comment period is extended to 45 days. All comments received by DTSC within the comment period on the CEQA document are carefully considered, and a written response to comments from DTSC is provided.

Data Sources and Tools

The Site Mitigation Program utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with local impacts to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan.

In addition, any information gathered through a Community Profile, the Baseline Community Survey, or community interviews will be reviewed and considered.

Identifying Vital Documents

The Site Mitigation Program follows the general framework for translation and interpretation of vital documents described in Appendix F. The list of documents Site Mitigation routinely makes available to the public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix F, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Baseline Community Survey
- Community Profile
- *Public Participation Plan (when prepared)
- *Community Updates
- *Notices of public meetings and workshops
- *Notice of CEQA/NEPA documents
- *Notice of Proposed Remedy
- *Notice of Final Statement of Basis
- *Notices of Public Comment Periods
- *Public Comments and Responses to Public Comments
- Preliminary Assessment/Site Inspection
- Remedial Investigation Report
- Human Health & Ecological Risk Assessments Feasibility Study Report
- Proposed Plan
- CEQA/NEPA documents
- Final Record of Decision
- Land Use Covenants
- *Civil Rights Program - Military Site Project Checklist

For each project, the Cleanup Project Manager, in consultation with the Public Participation Specialist, is responsible for identifying potentially vital documents, and ensuring the process for evaluating the appropriate public participation activities complies with DTSC's policies and this Implementation Plan.

Civil Rights Metrics and Evaluation

For each cleanup project, the Cleanup Project Manager, in consultation with his or her supervisor and the Public Participation specialist, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during the military site cleanup process. The Cleanup Project Manager will document DTSC's compliance with this Implementation Plan for each project by completing a DTSC Brownfields and Environmental Restoration Program Civil Rights and Language Access Military Site Project Checklist in Appendix G.

Site Mitigation

The Site Mitigation process is a sequential process with five clearly defined steps that are discussed below. The steps are very similar to the steps in the corrective action process discussed previously. However, the steps in the Site Mitigation process have different names.

This draft document has not been approved by DTSC and is for discussion purposes only.

Public Participation in Site Mitigation

Opportunities for public participation exist throughout every step of the Site Mitigation process, as described in the following text.

1. Preliminary Endangerment Assessment, Remedial Investigation and Feasibility Study

When initial analysis shows that site contamination poses a potential significant risk to public health or the environment and the site will require cleanup, DTSC requires a baseline community survey along with a community profile unless a Community Profile Report was recently completed for a nearby site. These steps may occur during the PEA, or as part of the RI/FS.

- Prepare and distribute a Baseline Community Survey, using a transmittal letter such as a letter or fact sheet. The transmittal letter or fact sheet shall be made available in languages other than English, if appropriate, and the survey can help identify language needs, sensitive uses, and population.
- Conduct community interviews.
- Prepare a community profile report or public participation plan with community involvement. The Community Profile Report/Public Participation Plan contains the site-specific community involvement strategies and is made available to the public during the early phases of the RI/FS. This is considered a presumptively vital document.
- Place the project documents on DTSC's website.
- Distribute community updates (fact sheets) to the site mailing list based on the level of interest regarding the plans to conduct the major elements of the site investigation and response action. The fact sheet is written in non-technical language and considered a presumptively vital document.
- Plan and conduct community meetings or workshops, with translators at each meeting to assist non-English speakers.
- Establish information repositories in the impacted community.

2. CEQA

The CEQA process provides for public participation in Site Mitigation cleanup decisions. The DTSC project manager works closely with the CEQA unit to determine what type of CEQA documentation is needed. Key points for public participation include:

- Scoping meeting to solicit input into the scope of the analysis of potential environmental impacts under CEQA is held if preparation of an Environmental Impact Report (EIR) is anticipated.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Public review of draft environmental documents prepared for the project for a minimum of 30 days.
- If a draft EIR is prepared, a public meeting is held (the public meeting for the draft remedy may be held at the same time), and the public comment period is extended to 45 days.
- All comments received by DTSC within the comment period on the CEQA document are carefully considered, and a written response to all comments is provided.

3. Cleanup Decision

Draft Remedy Selection Document. The draft remedy selection document contains a summary of the remedial investigation and feasibility study, a summary of the health, and presents the proposed remedy for the site. The draft remedy selection document can be called a Proposed Plan (for NPL sites), a Removal Action Workplan or RAW (if the proposed remedy is estimated to cost less than two million dollars), a draft Remedial Action Plan or RAP (if the proposed remedy is estimated to cost two million dollars or more, or a draft Response Plan (if the site is being cleaned up under Health and Safety Code chapter 6.82). During the time interval between the draft remedy selection document and the final remedy selection document, numerous public activities occur including the following:

- A 30-day public comment period for the draft remedy selection document and the companion California Environmental Quality Act (CEQA) document. If the CEQA document includes an Environmental Impact Report, the public comment period is 45 days. These are not presumptively considered vital documents but may be made available for translation for LEP individuals if determined to be vital under the general framework.
- Placement of the draft remedy selection document and supporting documents are in the local public repositories.
- Provide public notice in a newspaper language(s) appropriate for the affected community as determined by the community assessment. This public notice is considered a presumptively vital document.
- Prepare and distribute a fact sheet to the mailing list in languages appropriate to the affected community as determined by the community assessment. This is considered a presumptively vital document. The fact sheet describes the draft remedy selection document, announces the public comment period. If a RAP is the remedy selection document or a public meeting will be held based on the level of community interest, the fact sheet also announces the date and time for the public meeting.
- Notify local and affected agencies by mailing the fact sheet to the appropriate contact people identified in the community profile or public participation plan.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Notify the owners of the property contiguous to the site. This is considered a vital document.
- If a RAP is the remedy selection document or a public meeting will be held based on the level of community interest, hold at least one public meeting within the community in an appropriate location to discuss and receive comments on the draft remedy selection document and CEQA documents. If the community assessment indicates that LEP individuals will attend, translators are made available.
- If a public meeting is held, provide a taped or written transcript, including a record of comments received during the public meeting.

Final Remedy Selection Document. Following the public comment period, DTSC considers and responds to the public comments received, revises the remedy, as appropriate, selects the final remedy for the site and informs the public of the final selected remedy. Any fundamental changes from the remedy proposed in the draft remedy selection document must go through a follow-up public comment period. The following public participation activities occur:

- A written response to comments received during the public comment period is provided to the public.
- Upon approval of a Final RAP, a public notice of the final selected remedy is placed in a newspaper of general circulation. This is considered a presumptively vital document.
- Mailing list may be updated based upon returned mail and requests from community members.
- If necessary, the Public Participation Plan for the site is updated.

4. Remedy Design and Implementation

In the last phase of the remedial process, the cleanup remedy is selected, designed, and implemented. The following public participation activities may occur:

- Work notifications or fact sheets may be distributed. This is considered a presumptively vital document.
- A community briefing may occur. If the community survey indicates LEP individuals may attend, translators in the identified languages are onsite during the meeting.
- Based upon the level of community interest, a final letter or fact sheet may be sent out to interested community members at the completion of remediation or certification, describing the final remediation and any ongoing operations or maintenance.

5. Community Advisory Group

This draft document has not been approved by DTSC and is for discussion purposes only.

Interested parties have the opportunity to form a Community Advisory Group (CAG). The CAG is designed to give the community the opportunity to review any response action proposed by DTSC. DTSC assists in the formation of the CAG and regularly communicates and confers, as appropriate. To the extent possible, DTSC ensures that the CAG reflects the composition of the affected community and the diversity of interest of the community.

Data Sources and Tools

Site Mitigation utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with local impacts described in Appendix H to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan.

In addition, information gathered through the Community Profile, the Baseline Community Survey, and community input will be reviewed and considered.

Identifying Vital Documents

The Site Mitigation Program follows the general framework for translation and interpretation of vital documents described in Appendix H. The list of documents Site Mitigation routinely makes available to the public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix G, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

- Baseline Community Survey
- Community Profile
- *Public Participation Plan (When prepared)
- *Community Updates
- *Notices of public meetings and workshops
- *Notice of CEQA documents
- *Notice of Proposed Remedy Selection Document
- *Notice of Final Remedy Selection Document
- *Notices of Public Comment Periods
- Preliminary Endangerment Assessment
- Remedial Investigation Report / Site Characterization Report / Site Assessment Plan

This draft document has not been approved by DTSC and is for discussion purposes only.

- Human Health & Ecological Risk Assessments Feasibility Study Report
- Draft Remedy Selection document
- CEQA documents
- Final Remedy Selection document
- Land Use Covenants
- *Civil Rights Program - Project Checklist

For each project, the Cleanup Project Manager, in consultation with the Public Participation specialist, is responsible for identifying potentially vital documents, and ensuring the process for evaluating the appropriate public participation activities complies with DTSC's policies and this Implementation Plan.

Civil Rights Metrics and Evaluation

For each site mitigation project, the Site Mitigation Project Manager, in consultation with his or her supervisor and the Public Participation specialist, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during the site mitigation process. The Site Mitigation Project Manager will document DTSC's compliance with this Implementation Plan for each project by completing a DTSC Civil Rights and Language Access Site Mitigation Project Checklist in Appendix G.

Rule Development

DTSC may, in certain circumstances, adopt regulations outlining the standards and requirements necessary to carry out its mission. For example, DTSC may adopt regulations to implement the Hazardous Waste Control Law, the Hazardous Substances Account Act (also known as the "State Superfund Law"), and the Green Chemistry Law.

When DTSC adopts regulations, it must follow California's Administrative Procedures Act (APA). The APA establishes rulemaking procedures and standards for all State of California departments and agencies. The APA is designed to ensure the state's regulations are clear, necessary, and legally valid, and that the public has a meaningful opportunity to participate the regulatory process. For more information on the APA, see California Government Code, section 11340 et seq.

Compliance with the APA is overseen by California's Office of Administrative Law (OAL). OAL is responsible for reviewing administrative regulations proposed by state agencies to ensure they comply with the APA; transmitting regulations to California's Secretary of State; and publishing regulations in the California Code of Regulations. More information about OAL and its processes may be found at www.oal.ca.gov.

This draft document has not been approved by DTSC and is for discussion purposes only.

There are generally two types of rulemaking processes: the regular rulemaking process, which is followed by most rulemaking activities, and the emergency rulemaking process. The type of rulemaking process used dictates the procedural requirements DTSC must follow, including, but not limited to, the contents of the rulemaking record, timeframes, opportunities for public participation, and OAL's review and effective dates for the regulations.

Public Participation in Rule Development

DTSC involves the public throughout the rulemaking process. Information and links about public participation in rulemaking may be found online on DTSC's website at http://www.dtsc.ca.gov/LawsRegsPolicies/LRP_Get-Involved.cfm. Information may also be found on OAL's website at <https://oal.ca.gov/>.

Public Participation in the Scoping and Regulatory Calendar

DTSC welcomes petitions for the adoption, amendment, or repeal of regulations as provided by Government Code section 11340.6. Petitioners are simply required to state the following clearly and concisely:

1. The substance or nature of the regulation, amendment, or repeal requested.
2. The reason for the request.
3. DTSC's legal authority to take the action requested.

Petitions for the adoption, amendment, or repeal of regulations may be submitted to DTSC via e-mail at regs@dtsc.ca.gov or by U.S. mail to Attn: Regulations Coordinator, Department of Toxic Substances Control, 1001 I Street, P.O. Box 806, Sacramento, CA 95812-0806. The public may also contact DTSC's Office of Policy at (916) 322-5225 for additional information. DTSC provides for support for LEP individuals, including translation and interpretation services, as needed.

Additional information on how to file a petition for the adoption, amendment, or repeal of regulations can be found on OAL's website at <http://www.oal.ca.gov/>.

Information about anticipated rulemaking topics may be found on OAL's rulemaking calendar at http://oal.ca.gov/publications/rulemaking_calendar/.

Public Participation in the Pre-APA processes

There is no set process for public participation in preliminary rulemaking activities that take

This draft document has not been approved by DTSC and is for discussion purposes only.

place before the formal APA rulemaking process starts. DTSC, however, generally solicits public input in a variety of ways.

1. A key way to receive information is to sign up for email from DTSC on topics of interest. Interested persons may sign up to receive information from DTSC at <http://www.dtsc.ca.gov/ContactDTSC/ELists.cfm>.
2. DTSC may hold scoping meetings, focus groups, workshops, or symposia to identify areas for rulemaking or to refine concepts before proposing a regulation. DTSC provides advance notice of public meetings and holds these meetings in locations where the public, including individuals with special mobility needs, may easily participate. Some meetings are webcast. More detail about access considerations is provided in the Public Participation section beginning on page # of this Implementation Plan. Key considerations for preliminary rulemaking include:
 - Ensuring key written materials (including sign-in sheets, agendas, handouts, maps, visual aids, evaluation forms, etc.) are available in translated formats, as identified and prepared in advance;
 - Identifying other documents, portions of documents, or summaries of documents that may be provided in translated formats;
 - Ensuring staff have appropriate expertise for each topic discussed, and that interpretation is available if needed and program staff is not bilingual; and
 - Depending on need and meeting format, interpretation or simultaneous translation may be provided.

Public Participation in Proposed Regulations and CEQA

The APA rulemaking process requires that key materials be made available to the public for comment. DTSC provides these materials to its regulatory email list. To be added to DTSC's mailing list to receive information on specific rulemakings or all proposed rulemakings, subscribe to the All Regulations [E-Lists](#). Everyone on the **All Regulations E-Lists** receives every 45-day public notice; however, subsequent 15-day notices will only be sent to those who have requested to be placed on the list for a specific rulemaking. There are also [E-Lists](#) for specific rulemaking activities. For assistance with this, e-mail regs@dtsc.ca.gov.

DTSC also maintains a physical mailing list, but we recommend that interested persons sign up to receive electronic notifications through E-Lists to minimize the environmental impact of mailings. Individuals who would like to be added to DTSC's physical mailing list may also contact DTSC at regs@dtsc.ca.gov, mailing address P.O. Box 806, Sacramento, CA 95812-0806.

This draft document has not been approved by DTSC and is for discussion purposes only.

Notices of public comment periods (45-day comment periods and 15-day notices of changes) are made available in translated formats. DTSC also reviews all documents in the rulemaking package to determine which documents and information, or portions thereof, are vital to understanding and participating in the rulemaking process and provides those vital documents and information in translated formats.

DTSC holds at least one public hearing during the 45-day public comment period on proposed regulations. For a more detailed discussion of access considerations at public hearings, please see the Public Participation section on page # of this Implementation Plan. Key considerations include:

- Ensuring key written materials (including sign-in sheets, agendas, handouts, evaluation forms, etc.) are available in translated formats, identified and prepared in advance;
- Providing speaker request forms in a clearly marked location, accessible to wheelchairs and other mobility support, and translated, as applicable for LEP commenters;
- Providing simultaneous translation or interpretation, as applicable, for LEP commenters; and
- If commenters will have limited time for comments, ensuring LEP commenters must have equal time allowing for simultaneous translation or interpretation.

Data Sources and Tools

DTSC utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with statewide impacts described in Appendix F to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan during rulemaking activities.

Identifying Vital Documents

As part of the Rule Development Process, DTSC follows the general framework for translation and interpretation of vital documents described in Appendix F. The list of documents made available to the public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix F, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

This draft document has not been approved by DTSC and is for discussion purposes only.

- *Notice of 45-day Public Comment Period
- *Notice of 15-day Public Comment Period
- *Notice of 5-day Emergency Comment Period
- *Notice of CEQA documents
- Notice of Proposed Action (NOPA)
- Public Comments and Responses to Public Comments
- Draft and final Regulatory Text
- Economic Impact Analysis
- Draft and final CEQA documents
- Initial Statement of Reasons
- Final Statement of Reasons
- Statement of Overriding Considerations
- *Civil Rights Program – Rule Development Project Checklist

Civil Rights Metrics and Evaluation

For each rule development project, the Rule Development Project Manager, in consultation with his or her supervisor and the Public Participation specialist, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during the rule development process. The Rule Development Project Manager will document DTSC's compliance with this Implementation Plan for each project by completing a Civil Rights Rule Development Project Checklist in Appendix G.

Safer Consumer Products

Chemicals are present in virtually every aspect of a typical consumer's life. In fact, the average consumer in the United States encounters 100 chemicals per day – some of which may be toxic. The United States Centers for Disease Control and Prevention found 212 chemicals likely to be associated with serious health effects in the blood and urine of a representative population of Californians. The Safer Consumer Products (SCP) regulations provide the regulatory framework for taking action to make products containing toxic chemicals safer.

The California Legislature recognized societal concerns regarding the presence of harmful chemicals in products and passed the 2008 Green Chemistry Law in response. The groundbreaking law launched an innovative framework for evaluating chemicals in consumer products and marked a dramatic shift in the way the government protects public health and the environment. The Green Chemistry Law promotes a systematic scientific and technological approach that seeks to reduce the use of hazardous chemicals, and the generation of toxic

This draft document has not been approved by DTSC and is for discussion purposes only.

wastes, by changing how society designs, manufactures, and uses chemicals in products. With support from non-governmental organizations, business, and scientists, DTSC adopted the SCP regulations in 2013 to implement the Green Chemistry Law. The regulations provide a means to regulate toxic chemicals that consumers may unwittingly purchase, while encouraging new product designs and manufacturing approaches to improve product safety.

The SCP regulations establish a four-step process for:

1. Identifying potential harmful chemicals designating those as Candidate Chemicals;
2. Evaluating the safety of those chemicals in specific products and listing potentially harmful product-chemical combinations in regulation as Priority Products;
3. Assessing potentially safer alternatives for listed Priority Products through a robust Alternatives Analysis process; and then
4. Determining how best to minimize the potential for adverse impacts to human health and the environment through appropriate regulatory responses.

(Please see Appendix E for a detailed description of the SCP process.)

Public Participation in SCP

DTSC performs public outreach and involves the public throughout the SCP process. Key elements of the public outreach process are described in the following subsections.

Priority Product Work Plan

DTSC publishes a draft Priority Product Work Plan for public comment through the SCP information management system CalSAFER. Workshops are conducted to provide an overview of the Work Plan, explain department decisions, receive public comment, and answer questions. As part of the development of the Work Plan, DTSC may solicit nominations for product categories to be included in the Work Plan.

Priority Product identification

DTSC holds one or more public workshops to provide an opportunity for comment on proposed product-Candidate Chemical combinations prior to starting the rulemaking process to list a Priority Product. These pre-regulatory workshops are part of an informal stakeholder engagement process that allows DTSC to share information and solicit feedback from the potentially regulated community, as well as other interested groups.

In listing Priority Products, DTSC follows all requirements of the APA including notice, hearings, a public comment period, and responses to comments.

This draft document has not been approved by DTSC and is for discussion purposes only.

Alternatives Analysis

DTSC provides an opportunity for interested persons to review and provide comments to DTSC on AA Reports submitted by manufacturers. This comment period allows interested parties to participate in the AA process and provide input on the AA Reports before DTSC completes its final review of the reports for purposes of determining what, if any, Regulatory Responses are needed.

Petition processes

The petition process allows interested parties to request that DTSC do one of the following: add one or more chemicals from the Candidate Chemical List; add or remove the entirety of an existing chemicals list from the lists specified to be included in the Candidate Chemicals List; or add or remove any chemical-product combination from the Priority Products List. The petition requirements include significant technical documentation as part of the petition.

Regulatory Responses

DTSC has a range of options for Regulatory Responses, including: requirements to provide additional product information for consumers, use restrictions on chemicals or products, prohibitions on product sales, engineered safety measures, end-of-life management requirements, and the advancement of green chemistry and green engineering through research and development. When DTSC proposes Regulatory Response(s), the proposed determination is made available on DTSC's website for public review and comment, and DTSC issues a notice of its availability to the SCP electronic mailing list. DTSC will hold at least one public workshop to provide an opportunity for public comment on the proposed Regulatory Response determination.

Data Sources and Tools

Safer Consumer Products utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information described in Appendix F to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan. In addition, information gathered through CalSAFER, surveys, product-specific data sources, will be reviewed and considered.

Identifying Vital Documents

The SCP Program follows the general framework for translation and interpretation of vital documents described in Appendix H. The list of documents routinely made available to the

This draft document has not been approved by DTSC and is for discussion purposes only.

public include but are not limited to the list below. Presumptively vital documents are indicated in the below list by an asterisk. Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix F, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

- *Priority Product Work Plan
- Priority Product Profile
- Summary documents explaining the basis for a DTSC decision when DTSC believes that the decision is likely to disproportionately impact LEP populations
- Rulemaking – regulation language, statement of reasons, *notice of proposed action, technical document
- Guidance
- Priority Product notifications and status
- Petitions and petition determination decisions
- Alternatives Analyses
- Notice of deficiency
- Applicant’s response to the notice of deficiency
- Notices of draft and Regulatory Responses
- Notice of SCP public meeting, workshop, or hearing
- Green Ribbon Science Panel materials
- Notice of public comment period
- Transcript of public hearing
- Public comments
- Response to public comments
- Certain documents or sections of documents related to the following Regulatory Responses:
 - *Product Information for Consumers
 - *Use Restrictions on Chemicals and Consumer Products
 - *Product Sales Prohibition
 - *End-of-Life Management Requirements
 - *Engineered Safety Measures or Administrative Controls

In addition to the criteria outlined in the department’s decision tree, SCP specific considerations may include:

This draft document has not been approved by DTSC and is for discussion purposes only.

- Who uses or is impacted by the product-chemical combination that is the subject of SCP research or action?
- Is there potential for significant or widespread adverse impact to a specific LEP population?

The determination of what documents are considered vital is made at the discretion of SCP representatives in consultation with the Public Participation Branch, based on population-specific circumstances, interests, and needs. In some cases, DTSC may consider disparate purchasing patterns or product usage that pertain to certain LEP populations. For instance, nail salon products contain many potentially harmful chemicals. It's estimated that 59-80% of nail salon workers in California are women of Vietnamese descent, many of whom have LEP.

With respect to documents intended for public outreach or a broad audience, DTSC works to ensure that the documents it considers vital are translated where a significant percentage of the population is likely to be directly affected by its decisions are LEP. DTSC considers the nationally prominent languages spoken by LEP individuals as a guide for prioritizing languages for translation of vital documents (Chinese, Korean, Spanish, Tagalog, and Vietnamese). Additional languages may be considered for translation, as appropriate, based on regional demographics or subject matter targeted to specific audiences.

Civil Rights Metrics and Evaluation

For each Safer Consumer Products action, the SCP program will consult with the Office of Public Participation, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan. The SCP will document DTSC's compliance with this Implementation Plan for each project by completing a Civil Rights and Language Access Safer Consumer Products Project Checklist in Appendix G.

Public Participation

The mission of DTSC's Office of Public Participation is to ensure that the public is informed and involved early in DTSC decisions; that community issues and concerns are heard; and that public stakeholder comments are considered prior to final decisions by DTSC staff and management. The roles and responsibilities of the Office of Public Participation include building public confidence in the Department's decisions to promote meaningful public engagement; ensuring communities know of and have opportunities to participate in decisions, and engage DTSC's decision-makers early and frequently, customizing outreach strategies and activities to a community's needs.

This draft document has not been approved by DTSC and is for discussion purposes only.

Public participation is an integral part of the site mitigation and hazardous waste management processes and is the responsibility of each DTSC employee who has a role in DTSC's decision-making process. The role of the DTSC Public Participation Specialist is to initiate and maintain a two-way conversation, and to prepare and provide information for the public. A well-planned public participation program, fully integrated into the overall technical program, is a key factor in successful site remediation, corrective action, permitting, and other DTSC activities.

DTSC works to create a dialogue with all stakeholders to ensure that their concerns and priorities are incorporated into decision-making. The department's approach is founded on a proactive public participation program that encourages community involvement by providing for the free flow of information to and from the community, as well as identifying and considering community concerns.

Public participation is designed to:

- Ensure that the public is involved early and throughout DTSC's decision-making process;
- Establish an ongoing two-way communication process that provides information in a clear and understandable manner to the layperson;
- Respond to questions and concerns in a relevant and timely fashion; and,
- Consider public concerns when determining final decisions on projects.

Some form of community assessment may be used to determine the level of community interest. Different types of community assessment and are outlined in detail in DTSC's Public Participation Manual. Following the community assessment, a Public Participation Plan is developed. This is essentially DTSC's road map for the community on how and when communication will take place. The Public Participation Plan is also a key tool for assuring fair and equal access. As communities are fluid, the Public Participation Plan is considered a "living" document, one that changes as the level of and need for public involvement changes.

Please see Appendix E for a more in-depth description of this program, and Appendix H for a table of Public Participation Activities and Coordination.

Access Considerations for Public Events

DTSC is committed to an open and constructive communication process. DTSC affirms the public has a right to information that affects its quality of life. Access to meetings and other events the public attends involves both physical access and language access.

Public Meetings

There are several types of public meetings which may be conducted during the site mitigation or hazardous waste management processes. In addition, DTSC holds public meetings to review regulatory proposals, to take input on initiatives, and to provide information and updates to the public.

Several factors are considered by DTSC when arranging public meetings. Specifically, attention is given to the time, location and accessibility of the meeting considering what members of the public it is intended to reach. DTSC strives to arrange meetings at locations that are easily accessible by the interested community, and at times when community members are less likely to be working and unavailable. Locations are physically accessible for individuals using wheelchairs or other mobility support, and those needs are considered in the set-up of the room, including width of aisles, placement of chairs, microphones, visual aids, and other materials. DTSC also ensures accessibility through the presence of interpreters for LEP individuals as needed.

Overall, public meetings provide DTSC a critical opportunity to interface with interested communities and ensure a dialogue occurs. There are several types of meetings which may be used during a project and those activities required to conduct each type of meeting including public meetings, briefings, workshops, open houses and public hearings.

Briefings are designed to provide project participants with the information they need to answer questions they are likely to receive about the site. Briefings can be held for one or more participants. Briefings should be clearly focused, and should not last for more than one or two hours. Once the initial briefing has been done, future briefings may consist of 5 to 30 minutes. Factors to use in determining specific sites for which DTSC might hold briefings on a regular basis include, but are not limited to, sites which are highly controversial or in which the community has expressed a high level of interest.

Workshops are semi-structured gatherings or seminars to assist the public to better understand complex or technical project-specific issues. These discussions are usually led by DTSC project staff, and may include individuals from other regulatory agencies, Responsible Parties and project proponents, or others with technical expertise in specific areas. A key difference between a workshop and a community meeting is the workshop's emphasis on sharing information in a more interactive way. Following a brief introduction, participants may break into small groups to focus discussion on designated project issues. Small group size and "round table" format allow for more information discussion than is usually possible in a community meeting. Workshops allow both agency staff and community members to become more familiar with the individuals and issues involved in a site. A more detailed discussion of the role

This draft document has not been approved by DTSC and is for discussion purposes only.

of workshops in the cleanup and permitting processes can be found in the Public Participation Manual.

Open houses are informal gatherings at which community members drop in and talk directly with individual DTSC staff or other specialists about specific concerns and questions. Open houses may be held to maintain contact between the community and DTSC staff, to update the community on a long-term project and between technical milestones. An open house can be initiated by DTSC or upon request of a community.

Open houses differ from community meetings and workshops in several ways. There is no set agenda and no formal presentations are given. Community members do not arrive at the same time; rather, attendance is spread over a period of several hours, allowing people to attend at their convenience. Transcripts/summaries of the meeting are not prepared, and any issue of interest may be discussed during the open house, while workshops generally focus on issues identified in advance.

Information about all public events should be provided in advance to inform members of the public and allow them to arrange to participate. The length of advance notice may vary depending on the nature of the event, and may also be specified in law or regulation. Events can be announced in a variety of ways, including:

- Flyers sent directly to each name on the mailing list, including bilingual translation if needed;
- Flyers posted at community-identified information centers, such as schools, places of worship, post offices, and local markets, including bilingual translation if needed;
- Telephone calls to key community leaders, with interpretation as needed;
- Display advertisements in local newspapers, including periodicals in languages other than English;
- Public service announcements or paid advertisements on local radio and television stations, including those broadcasting in languages other than English;
- Via social media, in translation as applicable;
- On DTSC's website (translation as applicable, or via Google Translator);

It is important to note that the Implementation Plan only applies to DTSC run meetings, notices and newsletters. DTSC is not able to dictate what methods other entities will use to convey information that may relate the project. This means any newsletters sent out by community groups, or announcements at city council, neighborhood council, community based organizations or other entities' meetings will be interpreted or translated at the discretion of the hosting organization.

Public Hearings

A public hearing is a formal process for the agency to receive comments from the public. In contrast to community meetings, a public hearing offers limited two-way communication between the public and DTSC. The California Code of Regulations requires that a minimum 30-day public notice be provided prior to a public hearing, and a public hearing cannot be scheduled until documents are placed in the repositories.

Formal public notice of a public hearing for a project, including the hearing date, time, location, purpose, and where to call for additional information, must be placed in a display advertisement in a local newspaper of general circulation. The notice should be translated, as applicable, for LEP individuals. The public hearing notice must also be distributed to the project mailing list. For proposed rulemaking, notice is provided through the Office of Administrative Law. In addition, public hearing notices should be posted on DTSC web site, and made available by e-mail notices to those who have requested to be informed. Notices should be translated as applicable for LEP individuals. DTSC may also choose to use other means of notice as described for public meetings, but these may not be used in lieu of the required notice.

DTSC provides a brief overview at the hearing, explaining the purpose of the hearing and the key issues being decided. Following the presentation, the public is offered the opportunity to make comment for the record. The time allotted to commenters may be limited, based on the number of commenters and the time available for the hearing. If comment time is limited, LEP individuals must be afforded equal time allowing time for translation. A court reporter makes a record of comments made. A hearing officer presides over the hearing, and there is generally also a hearing facilitator to manage logistics.

Because comments become part of the public record, the facilitator should ask all commenters to give their names and addresses. If there is doubt about spelling, the facilitator should ask the commenters to spell names or street names. Attendees who wish to receive a written response to comments provided verbally at the hearing must complete the sign-in sheet at the public hearing, including contact information. All comments will be heard and seriously considered, including comments in languages other than English. LEP individuals who provide comments in a language other than English and request a written response will be responded to in their spoken language; the comment and response will also be included in the formal record in English.

Access Considerations

All types of public engagement meetings have accessibility considerations that are reviewed by the public participation specialist. DTSC views these as critical considerations to ensure the

This draft document has not been approved by DTSC and is for discussion purposes only.

broadest access for communities. Listed are the primary considerations reviewed by the public Participation specialist when arranging any public meeting.

- Possible hearing locations should be identified in the Public Participation Plan or by consultation with the Public Participation Specialist;
- Many cities and towns have community centers with rooms suitable for hearings, but smaller audiences meeting rooms in libraries or government centers may be more accessible;
- The location must be physically accessible, in compliance with the Americans with Disabilities Act;
- Ensure all written materials (including sign-in sheets, agendas, handouts, evaluation forms, etc.) are available in translated formats, identified and prepared in advance;
- Provide a sign-in sheet, with Public Records Act disclosure statement;
- Provide an agenda, translated as applicable, explaining options for discussions;
- Public address (PA) system for remarks and microphone(s) for public comments placed to allow wheelchair access;
- Organized distribution, as applicable, of simultaneous translation equipment;
- Speaker request forms should be available in a clearly marked location, accessible to wheelchairs and other mobility support, and translated, as applicable for LEP commenters;
- Provide an interpreter, as applicable, for LEP commenters;
- Any LEP commenters using an interpreter will receive equal commenting time to English speakers, with time added to accommodate the needed translation.
- Timer or time keeper if commenters will have limited time for comments, and LEP commenters must have equal time allowing for translation;
- Evaluation forms, translated as applicable.

Regulations provide specific requirements for public hearings including that the public hearing be scheduled at a location convenient to the population center nearest to the proposed project, where applicable; suitable hearing rooms should comfortably accommodate 200 people or more, depending on the anticipated attendance, and; that comments received in languages other than English will be responded to in the commenters used language. Hearings on statewide issues are generally held in Sacramento.

Access Considerations for Materials Posted to Website

DTSC is currently redesigning its website to make it easier to navigate, improve the public's online experience, and increase effective communications. As part of this process, DTSC is verifying the guidelines for web accessibility of web pages and web documents are met. This

This draft document has not been approved by DTSC and is for discussion purposes only.

section will be updated to reflect changes to access features of the redesigned website as they are available.

Pages on the current website may be translated into many languages using the Google Translator feature found at the bottom of each web page. The identification of the default language for the DTSC website is properly identified for assistive technologies, such as braille translation software or speech synthesizers.

Community Assessments

The community assessment process allows DTSC to consider potential community interest and informational needs, in particular around a hazardous waste facility or a project site early in the technical process. Community assessment also helps DTSC to anticipate the nature of possible community concerns and inquiries and respond appropriately to those inquiries. During the community assessment, DTSC also conducts a “Language Access Assessment,” to help determine the languages used in the targeted area and if languages other than English need to be considered to foster meaningful engagement between the community and DTSC. Several types of community assessment can be performed depending on what is already known about the community’s level of interest, the significance of the project site or permit action being proposed, and staff resources available. These include:

- Community Profile - Required during Preliminary Environmental Assessment process, (thumbnail sketch of community, newspaper articles), and provided by the Responsible Party.
- Baseline Community Survey - Required prior to commencement of remedial investigation to corrective action and closure projects. Evaluate potential interest in a project. This is also done for facility permits.
- Community Interviews - Required prior to commencement of Remedial Investigation/Feasibility Study field work. This is required for “high” community interest removal actions, facility permits, and RCRA Facility Investigation (RFIs).

The decision on what type of assessment is appropriate in a given situation is to be made by the Public Participation Specialist assigned to the project using the following guidelines.

The first step in the community assessment process is to do a rough evaluation of potential community interest at a given site/facility. To evaluate the level of community interest at a site/facility, project staff should review the following:

- Review DTSC files and records of public inquiries about the site or facility.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Review DTSC public participation file, if one already exists.

If not, this is the time to create a public participation file. A community profile is a report submitted to DTSC by a proponent/applicant/responsible party under the Fee-For-Service or Voluntary Cleanup programs, or as part of the Preliminary Endangerment Assessment (PEA) process. The profile is used to obtain a “thumbnail sketch” of a community. This is necessary to evaluate whether public involvement activities are warranted at a given time and to identify sites or facilities with “high” community interest or concern early in the process.

Community Profile

The Preliminary Endangerment Guidance Manual (1994), requires that a community profile be prepared as part of each Preliminary Endangerment Assessment (PEA). Community profiles for school sites with recommendations for further action should be prepared during the PEA Public Comment Period conducted by the school district. The school district should submit the community profile to DTSC for review and approval upon completion of the public comment period. A community profile is also submitted to DTSC by a project proponent under the Voluntary Cleanup program. The community profile should be submitted by the project proponent, along with the Preliminary Endangerment Assessment work plan. This profile must be reviewed by a Public Participation Specialist to determine what activities are warranted.

The following criteria can be used as general guidelines for evaluating whether the level of community interest is “high” or “low” for a specific project. No single answer will necessarily determine if a project is of high interest, rather the answers should be evaluated by the Public Participation Specialist and program project manager as a whole. This determination is useful for developing an appropriate and responsive public participation program. These are only general guidelines and cannot replace a site-specific community assessment. Also, it should be recognized that community interest may change at any point during the site mitigation or hazardous waste management process. Therefore, the DTSC staff and Public Participation Specialist should monitor community interest.

- Proximity of the site to residences, schools or businesses or other sensitive populations.
- Likelihood that the site may pose a risk to public health or the environment (presence of clear exposure pathways, such as ground or surface waters, dust, odors or prevailing winds, by which contaminants could reach humans or wildlife).
- Level of local community concern about potential health risks from the site, or potential impacts of the site, or actions at the site, on property values or other quality of life considerations.
- Level of interest previously demonstrated by the community in toxics or other environmental issues.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Level of familiarity and concern of local residents, officials, and/or other agencies with the project.
- The designated of the area using CalEnviroScreen.
- The level of media coverage or other organized community activity about the site.
- The level of trust the local communities have in DTSC.
- The presence of other hazardous waste facilities or sites within one geographical location (e.g., city limits or particular neighborhood).
- The quality of the relationship between the project proponent and the community.

Further details on the specific questions asked and process used for determining a Community profile can be found in Appendix E and DTSC's Public Participation Manual.

Baseline Community Survey

A baseline community survey (also referred to as a community survey) is a process conducted by a Public Participation Specialist, utilizing questionnaires, display ads and telephone interviews, from Health & Safety Code Section 25358.7 (b). It is also an opportunity to introduce a project to a community and get some early feedback, including information on sensitive receptors. A baseline community survey cannot take the place of community interviews, which are necessary prior to the development of a Public Participation Plan.

A baseline community survey can be performed at the earliest stages of a project. A baseline community survey also can be a useful tool to monitor community interest during the life of a project or evaluate the impact of a change in circumstances. Community surveys are ideal for evaluating new projects to obtain a general idea of the level of community interest. For known "high" community interest facilities, community interviews should be conducted.

The baseline community survey process is outlined below, highlighting the key steps for conducting the survey:

- Develop project mailing list;
- Send out an introductory letter describing the proposed project, DTSC's role, and public involvement opportunities. Include with the letter, a questionnaire asking about knowledge of, interest in, or concern about project, as well as how to best work with this community; and,
- Review responses received to obtain feedback on community interest and/or concern. Consider number of responses received (10% is usually a good response to such a mailing), as well as the specific comments provided.
- Prepare a summary of information received from questionnaires, phone interviews, and/or display ads.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Develop a public involvement strategy, which is responsive to needs identified by the community; this should include whether additional community assessment efforts are warranted as well as any other public participation activities that are anticipated for the project.

A written survey can be enhanced by the following methods:

- Conduct a limited number of telephone interviews with key community leaders (usually 7-10 interviews) for additional information about community and issues.
- Place a display ad in local newspapers, describing the proposed project, DTSC's role, and public involvement opportunities. Include a DTSC contact and a tear-out coupon which can be returned for additional information and to be added to the project mailing list.
- Conduct a drive-by site/facility inspection to gather more information (particularly sensitive receptors and vulnerable populations) about the community.

Community Interview

Community interviews are individual, in-person interviews, conducted by the Public Participation Specialist and the Project Manager with community members, local officials, and other interested parties to:

- Identify the geographical boundaries interested community;
- Obtain historical information about the site/facility;
- Assess community issues and concerns;
- Evaluate level of awareness about a project;
- Obtain an understanding of past community involvement in this or other similar projects;
- Receive input on how to best involve the community in the site mitigation or permit process;
- Begin to establish a relationship with local agency and community representatives;
- Languages other than English spoken by community members;
- Ability to send/receive electronic correspondence or access to the internet.

For cleanup projects, community interviews are the first step in the development of a Public Participation Plan. For Hazardous Waste Management projects, community interviews should be done for any "high" community interest facilities, when review of the Part B permit application begins or when corrective action is initiated. This determination may change for a facility at any time. Interviews can also be done at other times during the site mitigation process, as needed, in order to evaluate changing community make-up, interests, needs or

This draft document has not been approved by DTSC and is for discussion purposes only.

concerns. The Public Participation Specialist is responsible for determining when community interviews are necessary.

Community interviews are a time-intensive activity because of the large amount of organization required and time needed for interviews. While the level of effort will vary, each interview may require four hours for research and preparation, the interview itself, and follow-up activities. At the conclusion of the community interview process, the information gathered will inform and improve the final baseline community assessment. Further details on the specific questions asked and process used for determining a community interview can be found in Appendix E and DTSC's Public Participation Manual.

Data Sources and Tools

The Office of Public Participation utilizes the data sources and tools identified in the general framework for translation and interpretation of vital documents, and information for projects with local impacts described in Appendix F to assist it in complying with federal and state civil rights and language access laws and this Implementation Plan.

In addition, information gathered through the community assessment will be reviewed and considered.

Identifying Vital Documents

The Office of Public Participation follows the general framework for translation and interpretation of vital documents described in Appendix F. The list of documents routinely made available to the public include but are not limited to the list of documents in the preceding "Identifying Vital Documents" sections of this Implementation Plan. In addition to this list, the Office of Public Participation may produce additional documents and information that fall into the following general categories:

- Any public notice for any DTSC public meeting, briefing, workshop, etc.
- Any public notice for any DTSC public hearing
- Any community update or fact sheet

Presumptively vital documents will always be translated in their entirety should a threshold LEP population exist within the Potentially Interested Community. Other potentially vital documents, summaries, or portions of those documents, may be determined to be vital on a case-by-case basis. As described in Appendix F, when a threshold LEP population is identified, DTSC will use a decision-tree approach in determining whether a potentially vital document or information should be translated or orally interpreted.

This draft document has not been approved by DTSC and is for discussion purposes only.

Civil Rights Metrics and Evaluation

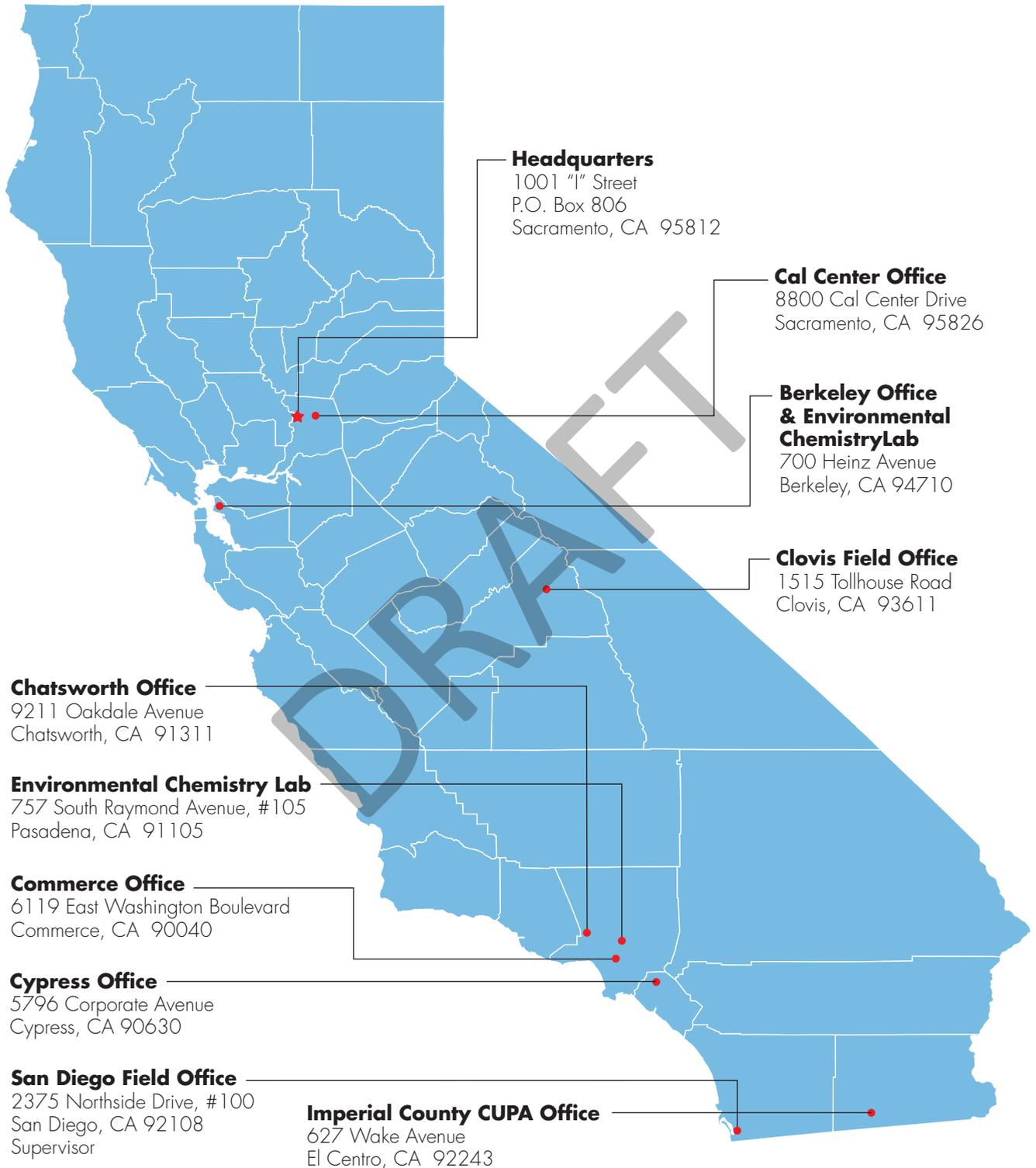
For each project, the Public Participation Specialist, in consultation with his or her supervisor and the project manager, as well as the Office of Civil Rights and/or the Office of Legal Counsel as needed, is responsible for ensuring that DTSC complies with this Implementation Plan during all activities impacting and engaging with the public. The Public Participation specialist will ensure that the appropriate checklist (see Appendix) for the type of project undertaken is completed by the project manager. Please see the following table for a list of Public Participation performance metrics.

DRAFT

This draft document has not been approved by DTSC and is for discussion purposes only.

Performance Metric	Items Measured	Evaluation
1. For each project in process, evaluate communities via community assessment to determine Civil Rights/ Language Access needs	<ul style="list-style-type: none"> A. Number of projects assigned to public participation specialists in process. B. Number of communities assessed for language access issues. 	<ul style="list-style-type: none"> a. Percentage of projects with assessments completed within 9 months of project start (project assigned to specialist for community engagement)
2. For each project with a significant LEP community, ensure the Civil Rights requirements are included in the community assessment/ public participation plan and post the LEP status of the community on the external EnviroStor project information page	<ul style="list-style-type: none"> A. Number of projects in LEP communities. B. Number of associated project plans established within 9 months of project start. C. Number of facilities with LEP communities that have postings to EnviroStor project information page, documenting the LEP language access status. 	<ul style="list-style-type: none"> a. Percentage of projects in LEP communities that have community assessment/ public participation plans identifying Civil Rights/ translation requirements. b. Plans have list of vital documents, language for translation, and other civil rights-related actions (e.g., translation services during public hearings, meeting accessibility considerations).
3. Evaluate whether vital documents are being translated.	<ul style="list-style-type: none"> A. Number of documents issued that require translation. B. Number of documents with translation completed. 	<ul style="list-style-type: none"> a. Percentage of documents requiring translation that were translated.
4. Track overall number of documents translated and number of oral translation services provided.	<ul style="list-style-type: none"> A. Number of documents translated B. Count of number of meetings where oral translation services are provided. 	<ul style="list-style-type: none"> a. Provide quantifiable tracking of actions taken to improve language accessibility and meet civil rights requirements.

Appendix A: Map of Regional Offices



Appendix B: Key Contact Information

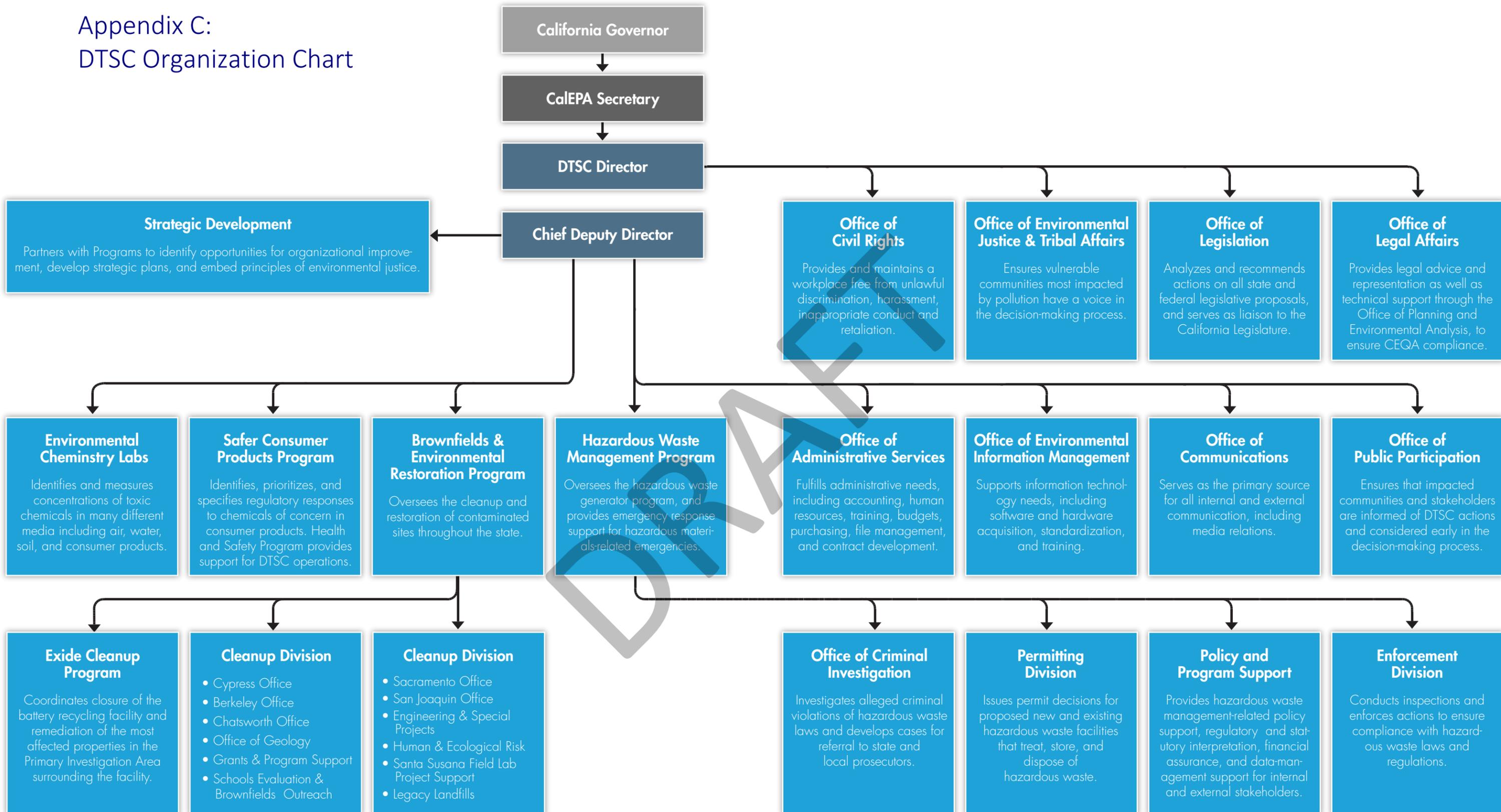
Office of Civil Rights
California Department of Toxic Substances Control
1001 I Street, 12th Floor
Sacramento, CA 95814
OCR@dtsc.ca.gov
(916) 322-2844

Barbara A. Lee
Director
California Department of Toxic Substances Control
1001 I Street, 12th Floor
Sacramento, CA 95814
DTSCDirectorsOffice@dtsc.ca.gov
(916) 322-0504

Jerilyn Lopez Mendoza
Deputy Director of Public Participation
California Department of Toxic Substances Control
Jerilyn.LopezMendoza@dtsc.ca.gov
9211 Oakdale Ave, Chatsworth, CA 91311
(818) 885-2013

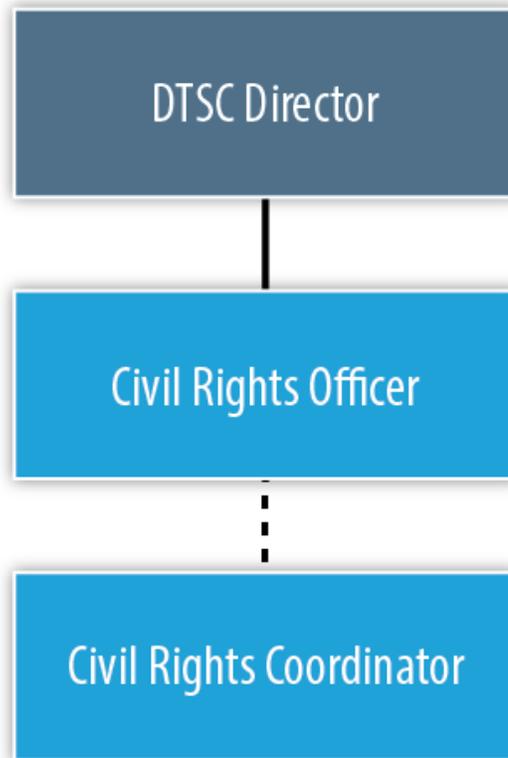
Ana Mascareñas, MPH
Assistant Director for Environmental Justice and Tribal Affairs
Ana.Mascarenas@dtsc.ca.gov
1001 I Street, Sacramento, CA 95814
(916) 322-9219

Appendix C: DTSC Organization Chart



Appendix D: Office of Civil Rights Organization Chart

Office of Civil Rights



Appendix E: Program Descriptions

The Civil Rights and Language Access Implementation Plan provides a detailed process for how DTSC will ensure a consistent application of DTSC’s Civil Rights and Language Access Policies. In order to assist readers, this appendix provides a more in-depth picture of the exact roles and activities that each program engages in within DTSC. The goal is for this information to provide a contextual backdrop of overall program activities and assist readers in understanding the processes that lead to public engagement and public participation.

Contents

Permitting	E2
Hazardous Waste Permit Process Overview.....	E2
Certified Unified Program Agencies: Tiered Permitting Process Overview.....	E6
Compliance Inspections	E7
Inspection Process Overview	E7
Corrective Action	E9
Corrective Action Process Overview.....	E9
Site Mitigation.....	E14
Site Mitigation Process Overview	E15
Voluntary Cleanup Program Process Overview	E17
School Sites Process Overview.....	E17
Rule Development	E18
Rule Development Process Overview.....	E18
Safer Consumer Products	E22
Safer Consumer Products Process Overview.....	E22
Public Participation	E24
Public Participation Process Overview	E24
Access Considerations for Public Events.....	E25
Access Considerations for Materials Posted to Website.....	E33
Community Assessments	E33

Permitting

Hazardous Waste Permit Process Overview

A DTSC-issued permit is required for all facilities that treat or dispose of hazardous waste, for facilities that receive hazardous waste from off-site generators, and for facilities that store hazardous waste onsite for more than 90 days. Some facilities that treat hazardous waste generated onsite may be subject to a lower-tier permit issued by a Certified Unified Program Agency (CUPA), a local enforcement agency certified by the California Environmental Protection Agency. There is a brief discussion at the end of the Permitting CRIP related to CUPA permitting responsibilities for hazardous waste in California.

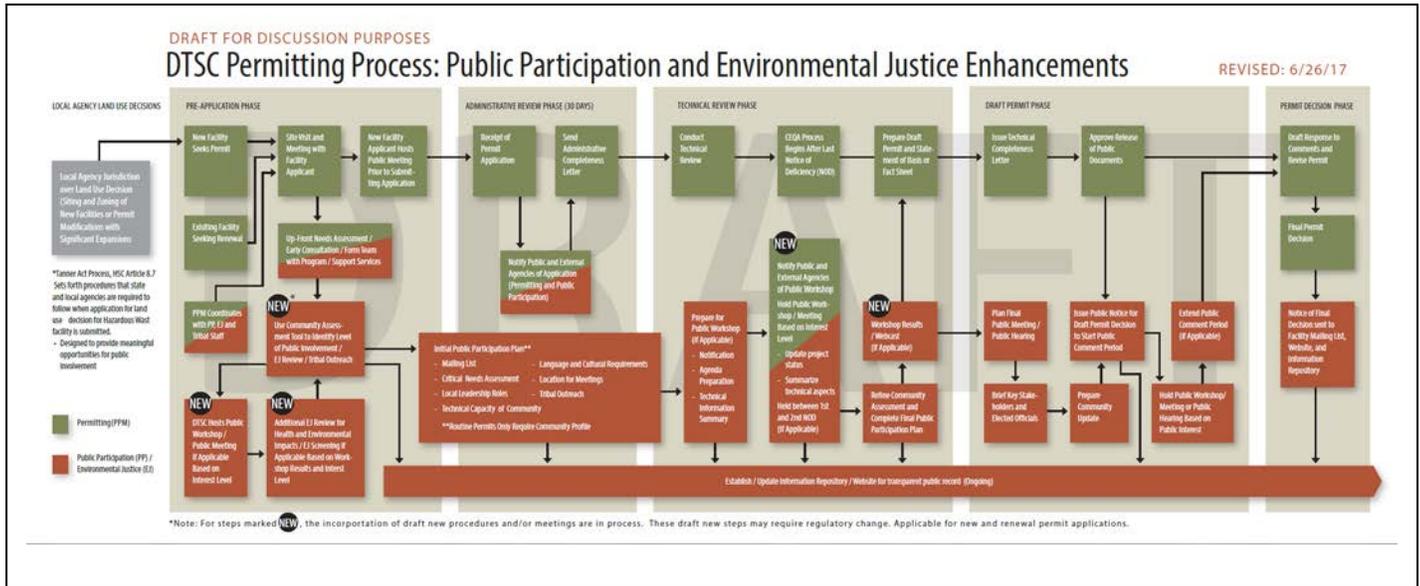
DTSC issues permits for complex and large facilities, such as hazardous waste landfills, organic-solvent treatment facilities, and for sites managing hazardous waste mixed with radioactive waste. DTSC issues a “RCRA-equivalent” or “full permit” to these facilities, tailored to the facility requirements and complexities. Facilities that manage non-RCRA (or California-only) hazardous waste, such as used oil, are required to submit an application for a DTSC standardized permit.

Permit decisions are made on several types of permits, including operating permits for the treatment, storage, or disposal of hazardous waste; permit modifications; post-closure permits where hazardous waste remains on-site after a facility closes; and emergency permits to address an imminent and substantial endangerment to human health or the environment.

DTSC’s permitting process must address many requirements beyond hazardous waste laws and regulations. For example, the process must comply with California Environmental Quality Act (CEQA) requirements, which involves a comprehensive review of the environmental impacts of DTSC’s permit decision. In addition, DTSC’s permitting process requires transparency by requiring public participation as a component of the permit decision process. .

Broadly, there are six phases in the review and decision process for hazardous waste facility permit applications: (1) the Pre-Application & Application Phase; (2) the Administrative Review Phase; (3) the Technical Review Phase; (4) the Proposed Permit Decision Phase; (5) the Permit Decision Phase; and (6) the Permit Appeal Phase. DTSC provides opportunities for public participation throughout the process. The flow diagram in Figure X, below, illustrates, for general understanding and discussion, the five phases and the intersection between the permit review and public participation opportunities, including proposed new public participation elements that are under development. Public participation activities are scaled to the level of public interest.

DTSC Permitting Process & Public Engagement



1. Pre-Application & Application Phase:

Generally, when a permit application is submitted to DTSC, a decision regarding the suitability of the operation for the location at which the permit is requested has already been made by the local municipality. Land use decisions are reserved for local land use decision-makers under the Constitution of the State of California. DTSC may act in an advisory capacity to local land use decision-makers regarding general suitability as a Responsible Agency under CEQA.

DTSC provides pre-application consultation with applicants for new permits or modifications to existing permits, upon notification of the applicant's intent to file. The purpose of this consultation is to advise the applicant on the required contents of a complete application for a hazardous waste facility permit or modification request.

For an existing permit that is nearing its expiration date (permits are typically issued for a period of 10 years unless DTSC finds a shorter permit term is warranted), DTSC initiates pre-application procedures with the permit holder to educate the permit holder about the required contents of a complete application for permit renewal. DTSC initiates this process approximately 18 months prior to permit expiration. Applications for permit renewal are due six months prior to the permit expiration date. If a complete application is timely submitted, the expiring permit is deemed continued, and the permit holder may continue to operate the facility under the terms of the continued permit until DTSC makes a decision on the facility's permit renewal application.

Public participation activities conducted by DTSC as part of the Pre-Application and Application phase of the hazardous waste facility permitting process include:

- A Community Assessment to identify the community, community characteristics, and level of public interest in the hazardous waste facility.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Public participation opportunities designed in consideration of public interest and communication needs.

2. Administrative Review Phase:

DTSC's goal is to complete its Administrative Review of a hazardous waste facility permit application within 30 days. Once a permit application has been submitted to DTSC, it is assigned to a project manager. The project manager screens the application to determine if the required application elements have been provided to support a technical review. If elements are missing, or additional detail is required to support a technical review of the application, DTSC notifies the applicant, in writing, through a Notice of Incompleteness (NOI). The facility then provides the items identified as missing in the NOI. An administratively complete application must be received prior to expiration of the existing permit, otherwise the permit expires and the facility must undergo closure.

Public participation activities conducted by DTSC during the Administrative Review phase include:

- Public notice that DTSC has received an application for a hazardous waste facility permit.
- Preparation of a Public Participation Plan, as needed based on the Community Assessment.
- Establishment of an Information Repository (or Repositories) and a website to make information about the application readily available to the public.

3. Technical Review Phase:

After a hazardous waste facility permit is determined to be administratively complete, the project manager and supporting technical staff review the information submitted in support of the permit application to determine whether the facility and operations, as proposed, meet all applicable statutory and regulatory requirements. This is called the Technical Review phase. If the application does not meet the statutory or regulatory requirements, or additional information is required, DTSC issues a Notice of Deficiency (NOD) to the permit applicant, notifying the applicant of deficiencies. The applicant may then submit the additional information required. If an applicant fails to correct identified deficiencies after DTSC issues three, consecutive NODs, DTSC will deny the permit application unless extenuating circumstances exist.

Generally, the technical review phase includes review of:

- Applicable statutes and regulations
- Hazardous waste management units at the facility
- Required plans, including the facility's hazardous waste operations plan, training plans, closure plan and associated cost estimate, contingency plan, waste analysis plan, and environmental monitoring plans

This draft document has not been approved by DTSC and is for discussion purposes only.

DTSC also assesses the type of environmental documents that are necessary and appropriate to ensure that its permit decision complies with CEQA. The proposed project—the granting of the hazardous waste facility permit— is evaluated under CEQA and the appropriate CEQA document for the project is identified (e.g., Environmental Impact Report (EIR), Negative Declaration, Notice of Exemption, Supplemental EIR, Addendum to prior EIR). The appropriate CEQA document is prepared under the direction of DTSC.¹

DTSC's process includes five elements in support of public engagement during this phase, based on level of public interest:

- Preparation of a technical summary and other materials for public outreach.
- Public workshop or meeting to review the status of application and information submitted to DTSC.
- Preparation and sharing of workshop results more broadly (webcast) if applicable based on level of interest.
- Refinement of the Community Assessment and Public Participation Plan.
- Updates to Information Repository/ies and website.

4. Proposed Permit Decision Phase:

If a hazardous waste facility permit application is determined to be technically complete, the Permitting Project Manager issues a Technical Completeness letter and drafts the permit decision documents. If the proposed decision is to grant a hazardous waste facility permit, a draft permit is developed. If the decision is to deny a permit, a notice of intent to deny is prepared. The decision documents are reviewed by legal, enforcement, and other internal specialists as needed. The draft decision document (i.e., the draft permit or notice of intent to deny), is provided for public comment. The public is notified of the public comment process by mail, radio, and newspaper notices. The notice identifies the documents available for public comment, the method for submitting written comments, and the beginning and end dates of the public comment period. Depending on the level of interest, DTSC may provide a longer public comment period. When requested, DTSC will also hold a public hearing at which DTSC presents information on the proposed action and receives oral and written testimony. At the close of the public comment period, the project moves into the final permit decision phase.

Public participation activities during the proposed permit decision phase include, depending on level of public interest:

¹ In some cases, DTSC is not the lead agency for CEQA analysis of permitting projects. Such examples include projects where the local planning authority performs a CEQA analysis as part of the land use decision to grant permission for the hazardous waste facility to be sited. For those projects, the local planning authority serves as the lead agency. The lead agency makes the CEQA determination and oversees preparation of the CEQA document.

This draft document has not been approved by DTSC and is for discussion purposes only.

- Conducting public meetings or workshops and hold public hearings during which DTSC presents information regarding its proposed permit decision and takes oral and written comments
- Briefing key stakeholders and elected officials
- Preparation of a community update
- Issuance of a public notice for the draft permit decision to start public comment period
- Updating Information Repository(ies) and DTSC's website

5. Permit Decision Phase:

After the close of the public comment period, DTSC reviews the comments received and prepares written responses to the comments. Depending on the nature of the comments, DTSC may modify its proposed permit decision. Each comment and response is compiled into one comprehensive document that is made available to the public along with DTSC's final permit decision. DTSC may conduct a second round of public comment. DTSC issues a permit decision and notifies the public of its decision.

Public participation activities conducted during the Permit Decision phase include:

- Publishing DTSC's response to comments received during the public comment period
- Issuing a notice of final decision to facility mailing list
- Updating Information Repository(ies) and DTSC's website

6. Permit Appeal Phase:

A hazardous waste facility permit becomes effective after a 30-day appeal period. Any person who submitted comments during the permit public comment period may file a Petition for Review with DTSC to appeal the permit decision during the appeal period. Upon receipt of a petition to appeal a permit decision, DTSC will appoint an Appeals Officer to hear the appeal. The Appeals Officer will consider written arguments submitted in support of the appeal and may hold an informal conference to hear oral arguments and evidence. Petitions for Review to appeal a permit decision may be based not only on the technical aspects of the permit decision, but also on the basis of civil rights laws allegedly violated during the permit decision-making process. Petitions for Review based on alleged civil rights violations are considered through a separate process described in DTSC's Civil Rights policy. Civil Rights allegations that are upheld through the separate Civil Rights policy process, are referred back to the permit Appeals Officer for consideration as a basis for permit appeal.

Certified Unified Program Agencies: Tiered Permitting Process Overview

California has a five-tier hazardous waste permitting program which matches the statutory/regulatory requirements imposed upon each category of hazardous waste facility to

This draft document has not been approved by DTSC and is for discussion purposes only.

the degree of risk posed by them. DTSC implements the first two tiers (“full permits” and “standardized permits”), the process for which is described above and subject to this CRIP.

The remaining three tiers (“permit by rule,” “conditional authorization,” and “conditional exemption”) are implemented by the 81 certified local government agencies known as Certified Unified Program Agencies (CUPAs). There are nearly 200,000 businesses regulated by the CUPAs. The CUPAs are not subject to this CRIP.

Compliance Inspections

Inspection Process Overview

Compliance inspections generally follow a process that includes: selection of the inspection, review and preparation, physical inspection, collection and analysis of samples, summaries and inspection reports, and follow-up actions.



1. **Selection of the Inspection:** At the program level, EERD uses CalEnviroScreen to help prioritize inspections, and participates in the CalEPA Environmental Justice Task Force, which identifies disproportionately impacted communities using CalEnviroScreen and conducts coordinated multi-media inspections. Public input, including complaints, about areas of concern can also guide the identification of geographical regions, industrial sectors, or specific facilities for inspection. EERD also has inspections schedules for certain types of inspections (see below).
2. **Review & Preparation:** After the inspection is selected, the inspector reviews background information that may include permits, compliance history, complaints, patterns of non-compliance found in other jurisdictions, and other available data that may inform the inspection.
3. **Physical Inspection:** Physical inspection typically involves a visit to the inspections site, such as a hazardous waste facility or contaminated site. The inspection site can include other sites such as a border crossing, a traffic stop, a retail outlet, or the location indicated by a complaint. During the physical inspection, the inspector generally makes observations about handling, treatment, storage, disposal, and transport of potentially hazardous wastes, examines records, looks at labeling, and reviews other aspects of the operation. Some inspections take several days to complete, and may require subsequent visits. The physical inspections may differ for different types of inspections, but the inspector will always make a careful record of what transpired and what was observed.

4. Collection & Analysis of Samples: The inspection will often involve collection of samples for analysis to determine the type and concentration of any hazardous chemicals that are present. Samples are collected labeled and transported to a laboratory using established chain-of-custody procedures. Compliance samples are usually analyzed at one of DTSC's Environmental Chemistry Laboratories. Depending on the material being analyzed, the analysis may require a few days to several weeks for results to be available.

5. Summaries & Reports: At the end of the physical inspection, EERD is required by statute to provide the owner or operator with a Summary of Observations if no violations were observed, or a Summary of Violations when the inspector found violations. A Notice of Violation is issued if a violation is observed that poses a serious threat to health and safety of the public or environment. Observations and violations are discussed with the operator to ensure they are corrected as quickly as possible. EERD is also required to prepare an Inspection Report and provide it to the hazardous waste facility owner or operator within 65 days of the completion of the inspection. If the inspection is part of an initiative, there may also be a report summarizing scope and results of the initiative.

6. Follow-up Actions: After the Inspection Report is written, follow-up may include such actions as re-inspection to verify return to compliance, formal enforcement action, and response to a complainant if the inspection was the result of a complaint. When violations are not corrected, or present an imminent or substantial endangerment to human health or the environment, DTSC may issue an order requiring action to correct the violation or take other action to prevent or mitigate the harm. EERD documents the results of its inspections and investigations in reports that are made publicly available on the EnviroStor database.

This general inspection process varies somewhat, however, depending on the type of inspection. A brief description is provided below of key inspection process considerations for five distinct types of inspections: (1) permitted hazardous waste facilities; (2) handlers of electronic waste (eWaste) and other universal wastes; (3) hazardous waste transporters (including cross-border shipments); (4) packaging and products; and (5) complaint response.

1. Permitted Hazardous Waste Facility Inspections: EERD conducts regularly scheduled compliance inspections of facilities with hazardous waste permits. This includes reviewing submitted data and reports, periodic physical observation, and testing and evaluation of facilities. EERD also performs additional inspections at hazardous waste facilities that require an in-depth look. Targeted inspections of hazardous waste facilities may be conducted because of focused concerns or prior to a permit renewal. These

This draft document has not been approved by DTSC and is for discussion purposes only.

inspections typically follow the steps outlined in the general process above. In preparation for the inspection, EERD will review the Community Assessment, if one has been performed.

2. eWaste, Universal Waste, and Household Hazardous Waste Inspections: Many electronic devices become hazardous waste at the end of their useful life. Some kinds of electronic devices (such as televisions and monitors with cathode ray tubes or LCD displays) are covered by the Electronic Waste Recycling Act, and EERD inspects operations that collect and recycle these devices on a regular schedule. EERD also inspects and investigates handlers of other eWastes, Universal Waste (which are listed in statute and regulations), and household hazardous waste in response to specific concerns from the public or other sources, and as part of focused initiatives. Most significant violations at eWaste and Universal Waste facilities involve the improper management and handling of these wastes, resulting in the release of heavy metals to the environment.
3. Hazardous Waste Transporter Inspections: Transporter inspections typically begin with a review of hazardous waste manifests to look for completeness and irregularities, and manifest review may make up the majority of the inspection. Most physical inspections of transporters take place at or near Ports of Entry and state inspection stations along major highways, however individual transporters may also be stopped and searched.
4. Inspections of Packaging and Products: EERD purchases products and analyzes the product and/or the packaging to determine whether banned or restricted hazardous substances are present. Inspections may be focused in vulnerable communities based on community initiatives. An example of one of these community initiatives is the Toxic Jewelry initiative. Focused on removing jewelry with noncompliant levels of lead or cadmium, inspectors field test initial samples and then take them for laboratory analysis.
5. Complaint Response Inspections: When EERD investigates a complaint, the Inspector interviews the complainant and takes a statement, if possible. Complaints may be anonymous, however. The inspection process typically follows the general process described above, however the Inspector may meet with the complainant in order to observe conditions identified by the complainant, if feasible. Depending on the nature of the complaint, the Inspector may attempt to identify other witnesses. If requested, the Inspector will provide a follow-up report to the complainant at the conclusion of the inspection. In the event the investigation of the complaint requires a longer time, the Inspector may provide progress updates to the complainant.

Corrective Action

Corrective Action Process Overview

Public participation is integrated throughout the Corrective Action process, and is summarized separately following this process overview.

1. RCRA Facility Assessment

The Corrective Action process begins an initial assessment of what contamination may be present. This is done through historical process review, site screening at potential release locations and the results reported in a RCRA Facility Assessment (RFA). The RFA evaluates whether current or past chemical use practices have resulted in the release to the environment that may pose a threat to human health or the environment. At areas with potential for releases such as areas where waste is currently or has historically been managed, samples of soil, water, air and soil vapor are analyzed to determine if any of the chemicals used at the site are present at levels of concern. If the assessment demonstrates no significant release has occurred, the findings are summarized in a RFA report and the facility is given a status of No Action Required. If the RFA demonstrates that releases did occur, the process moves to Step 2.

2. RCRA Facility Investigation and Corrective Measures Study

The next stage in the Corrective Action process includes a detailed characterization of the contamination and an evaluation of options to clean it up. This is accomplished through a RCRA Facility Investigation (RFI) and Corrective Measures Study (CMS). The purpose of the RFI is to determine how much area the contamination covers, and how deep it extends in all environmental media such as soil, groundwater, and soil gas. The RFI may include a human and ecological risk assessment or it may be completed as a separate document; this process is described in Step 3. The CMS then evaluates different cleanup options (called remedies) that might be applied.

3. Assessment of Health Risks, Impacts and Vulnerability

A human health and ecological risk assessment is prepared for each Corrective Action project where contamination is found at levels that may present a threat to human health or the environment. A Human health risk assessment examines the environmental fate and transport of each contaminant, to assess the human exposure to the contaminants. These evaluations are based on established science and comply with DTSC and U.S. EPA risk assessment guidance and policy. Human health risk assessments begin during the RFI and are used to determine the potential risk to human health from the contamination existing at the facility, to establish site-specific cleanup goals for the facility, and determine the need for a CMS.

Ecological risk assessment considers the potential adverse effects of chemicals on natural resources (plants and animals). As applicable, DTSC coordinates with other agencies that have jurisdiction over natural resources.

Additional data may be collected as needed to complete the risk assessments. When Steps 2 and 3 are complete, the remedy is selected, as described in Step 4.

4. Remedy Selection

This draft document has not been approved by DTSC and is for discussion purposes only.

After analyzing the contamination, human and environmental risks, and cleanup options, DTSC selects the cleanup remedy. Remedy Selection (RS) summarizes the results of the RFI, the human health and ecological risk assessments, and the CMS, and proposes a remedy for the project in the Statement of Basis. This includes objectives for the cleanup with numeric cleanup goals for contaminant in each environmental medium, if appropriate. DTSC also prepares an environmental analysis in compliance with CEQA. The proposed remedy and environmental documents are made available to the public for review and comment, after which DTSC may revise the remedy. The final remedy is incorporated into a decision document called the Statement of Basis, which is incorporated into the facility's hazardous waste permit. For a detailed discussion of the permitting process and associated public participation and language access, please see the Permitting section beginning on page # of this CRIP. After the permit is approved the remedy is implemented, as described in Step 5.

5. Implementation

The final stage in the Corrective Action process is construction and implementation of the remedy. Depending on the type of remedy selected, construction and implementation may be the same, for example, if the remedy is to remove and replace soil. However, if the remedy involves a treatment system, such as pumping out groundwater, removing the contaminants, and then returning the treated groundwater to the aquifer, the pumping and treatment systems must be designed and built before the treatment is implemented. When a remedy leaves waste in place, implementation can also include long-term obligations to maintain the systems or barriers that prevent exposure to the waste.

1. Preliminary Assessment / Site Investigation

The military is responsible for identifying contaminated sites on their installations and FUDS. Common sources of contamination include landfills, munitions training ranges, air operations, industrial processes, and above and underground fuel and solvent storage tanks. A Preliminary Assessment/Site Investigation (PA/SI) is conducted by the military to verify that hazardous substance releases are occurring at each site which threaten human health and environment. Sites that are found to pose a threat must undergo site characterization to determine a remedy for the contamination. DTSC and state agencies review PA/SI workplans and reports to ensure the military follows established investigation methods and techniques and that health and environmental hazards are properly evaluated.

2. Remedial Investigation and Feasibility Study (RI/FS)

For sites where the PA/SI established a health and environmental threat, the military conducts a Remedial Investigation (RI) and Feasibility Study (FS) to determine the extent of contamination in all media, including soil, groundwater, and soil gas. A human and ecological

This draft document has not been approved by DTSC and is for discussion purposes only.

risk assessment quantifies the sites risks to determine a cleanup goal that corresponds to an acceptable risk (see Step 3, below). The military evaluates potential remedies in an FS according to specified criteria in the National Contingency Plan, as required by CERCLA. DTSC and state agencies review investigation workplans and reports to ensure the sound science has been employed, human health and ecological risk assessments use up-to-date methods and toxicity criteria, and potential remedies undergo proper engineering evaluation.

The military is responsible for conducting public participation efforts during the remedy selection process. DTSC oversees baseline community surveys to evaluate public interest, preparation of fact sheets that inform the public of progress and proposed remedies, and public meetings where the community brings forth its comments and concerns. At some facilities the military has established restoration advisory boards to advise the military on the community's interest and concerns with remediation activities and, for closed facilities, redevelopment of those properties. DTSC participates in all restoration advisory board meetings and works with the military to provide meeting notification, develop agendas, and follow through on priority actions identified in those meetings. Where bases are located in sensitive communities with environmental justice issues, DTSC works with the military and, at NPL facilities, U.S. EPA, to address these concerns.

3. Assessment of Health Risks, Impacts and Vulnerability

A human health and ecological risk assessment is prepared for each Military Site project where an RI/FS is performed. A human health risk assessment examines the environmental fate and transport of each contaminant, to assess the human exposure to the contaminants. These evaluations are based on established science and comply with DTSC and U.S. EPA risk assessment guidance and policy. In the RI/FS process, the risk assessment is used to determine the nature and extent of remedial activities such as, establishing preliminary cleanup goals and ensuring that contaminants remaining do not pose a risk to human health.

Ecological risk assessment considers the potential adverse effects of chemicals on natural resources (plants and animals). As applicable, DTSC coordinates with other agencies that have jurisdiction over natural resources.

Additional data may be collected as needed to complete the risk assessments. When Steps 2 and 3 are complete, the remedy is selected, as described in Step 4.

4. Remedy Selection

The military and, at NPL facilities, U.S. EPA selects cleanup remedies based upon the RI/FS, human health and ecological risk assessment, compliance with applicable state laws and regulations, and input from the community. The military presents the remedy in a proposed plan that describes the remedy and alternatives considered, results of site investigations and risk assessments, an implementation schedule, and any long term operations, maintenance, and institutional controls. The proposed plan is made available for public review and comment,

This draft document has not been approved by DTSC and is for discussion purposes only.

including a public meeting. Based upon the outcome of the public review process, the military or U.S. EPA prepares a Record of Decision (ROD) that describes the selected remedy and the basis for selection. The ROD is signed by the lead federal agency (U.S. EPA or the military), and by DTSC and the Regional Water Quality Control Board denoting state concurrence with the remedy.

In determining whether to render state concurrence in a remedy at a military base, DTSC must determine that site characterization, remedy evaluations, and risk assessments have followed proper scientific methods and engineering practices; the remedy will comply with applicable state laws and regulations, and that public comments have been addressed. For facilities that are not on the NPL, DTSC must further evaluate the environmental impacts of the remedy prior to rendering concurrence. This evaluation is performed pursuant to the CEQA and is an obligation upon the state and not the military or federal agencies. DTSC provides public notice of its proposed CEQA determinations, including Notices of Exemption, Negative Declarations, and draft Environmental Impact Reports. For Negative Declarations, DTSC holds a 30-day public comment period and for Environmental Impact Reports, DTSC holds a 45-day public comment period.

Prior to concurring with the remedy, DTSC must address all public comments entered during the CEQA public notice period, inform the military of mitigation measures that must be complied with during remedy implementation, and issue a Notice of Determination. DTSC does not concur with remedies where the military does not agree to implement the mitigation measures.

5. Remedy Implementation

Once the military or U.S. EPA has signed a ROD with state concurrence, the military prepares remedy implementation plans for agency review. These plans include schedules for field work and construction activity, engineering designs of operating systems, plans for monitoring releases of any contaminants during the implementation, and verification sampling to determine that cleanup goals have been met. DTSC staff monitors the remedy implementation and conduct site visits as appropriate to ensure that the work activities comply with approved workplans and designs, CEQA mitigation measures, and applicable state and local regulations. Upon completion of the remedy work and verification sampling, the military submits a remedial action completion report for state concurrence.

For sites that require long term operations and maintenance (O&M), such as landfill caps, groundwater extraction and treatment systems, and soil vapor extraction and treatment systems, the military prepares an O&M plan that describes operational components, system performance metrics, monitoring systems and associated parameters, maintenance schedules, and shutdown criteria. As required by CERCLA, remedies must undergo reviews once every five years. The results of the five-year reviews are presented to the state for concurrence.

This draft document has not been approved by DTSC and is for discussion purposes only.

For sites where the final remedy leaves contaminants in place that are incompatible with residential exposure scenarios, land use controls are required to ensure that houses, hospitals, day care centers, and schools are not constructed on the site. For operating military bases, the military installation submits a land use control implementation plan (LUCIP) to the state that describes the measures the military will undertake to ensure the property is not used for sensitive land uses. Upon issuance of state concurrence, the LUCIP is incorporated into the base master plan that specifies land usage throughout the installation. Should the installation be closed by act of Congress, property that is subject to a LUCIP is transferred to non-federal entities with a land use covenant signed by the state and military service. Such covenants memorialize the LUCIP restrictions and become binding upon all future users and owners of the former military property. For closed military bases, the military prepares a land use covenant remedial design (LUC RD). This document outlines the restrictions that will be recorded if the property is transferred to a non-federal government owner.

Site Mitigation

The Brownfields and Environmental Restoration Program provides regulatory oversight for the remediation of sites where there has been a release of hazardous substances into the environment. In addition to the corrective action and military sites discussed above, this includes providing oversight for the following types of sites:

- 1) National Priorities List (NPL) sites where U.S. EPA is the lead regulatory agency;
- 2) State Response Sites. These are sites where DTSC has issued an Order to the responsible parties requiring the investigation and cleanup of the site;
- 3) Voluntary Cleanup sites where DTSC has signed a Voluntary Agreement for oversight of the investigation and/or cleanup of the site;
- 4) School Sites where DTSC has signed an agreement with a School District to oversee the investigation and/or cleanup of a School or a proposed school site.

NPL sites follow the federal CERCLA, which is sometimes called the Superfund Law. The Program authority for DTSC's work on NPL and State Response comes from Chapter 6.8 of the Health and Safety Code, which requires responsible parties to remediate sites and allows for the expenditure of State funds for site actions where there is no responsible party. Program authority for work on voluntary cleanup sites comes from Chapter 6.8, Chapter 6.82 and Chapter 6.86 of the California Health and Safety Code. The Program authority for work on School sites comes from the California Education Code and Chapter 6.8 of the California Health and Safety Code. The process followed under each of these authorities is similar, although they use different names for some of the steps and documents.

Site Mitigation Process Overview

1. Site Screening/Preliminary Endangerment Assessment

The Site Mitigation process begins with Site Screening. This is an initial assessment, based upon a records search and available information provided to DTSC, to determine whether there has been a release of hazardous substances that needs to be addressed under our regulatory oversight. Based upon the information available, the Site proceeds to the Emergency Response, Preliminary Endangerment Assessment (PEA), Remedial Investigation and Feasibility Study (RI/FS), or the remedy selection phase.

A PEA is conducted to determine whether current or past chemical use practices resulted in the release or threat of a release of hazardous substances to the environment at levels that may pose a threat to human health or the environment. If, during a PEA, it becomes clear that there is sufficient information to move the project into the next phase (remedial investigation and feasibility study), a baseline community survey is conducted and a Community Profile Report is prepared. For potentially high interest sites, additional community involvement may be initiated such as community updates/fact sheets, a letter, public notice, or public meeting/workshop. These can be initiated regardless of whether there will be further cleanup action for the project or no further action. When further cleanup action is needed, the project moves to Step 2.

2. Remedial Investigation and Feasibility Study (RI/FS)

The next stage in the Site Mitigation process is the Remedial Investigation (RI) and Feasibility Study (FS). The purpose of the RI is to delineate the horizontal and vertical extent of contamination in all media such as, but not limited to, soil, groundwater, and soil gas. Additionally, a human and ecological risk assessment is completed, which may be part of the RI or exist as a separate document. The FS evaluates various remedies that might be applied, balancing the pros and cons of each and following specified criteria in the Health and Safety Code as well as the National Contingency Plan to determine the best remedy. If not already completed, a Baseline Community Survey establishes the level of public interest and outlines the planned public involvement activities. If there is sufficient interest in a project, a fact sheet may be generated, as well as public notices and/or meetings. An information repository is also established within the community to provide public access to project documents.

If DTSC determines that no public involvement activities are needed for this phase of the project, the affected community is notified of this decision, in the form of a letter, fact sheet, or public notice. If the proposed remedy is anticipated to cost \$2,000,000 or more to construct, community interviews are conducted and a Public Participation Plan is prepared that is specific to the project and community.

3. Assessment of Health Risks, Impacts and Vulnerability

This draft document has not been approved by DTSC and is for discussion purposes only.

A human health and ecological risk evaluation or assessment is prepared for each cleanup project where contamination is found at levels that may present a threat to human health or the environment. A human health risk assessment examines the environmental fate and transport of each contaminant to assess the human exposure to the contaminants. These evaluations are based on established science and comply with DTSC and U.S. EPA risk assessment guidance and policy. In the Site Mitigation process, human health risk assessments are used to determine the nature and extent of cleanup needed such as, establishing preliminary cleanup goals and ensuring that contaminants remaining do not pose a risk to human health.

Ecological risk assessment considers the potential adverse effects of chemicals on natural resources. As applicable, DTSC coordinates with other agencies that have jurisdiction over natural resources.

Additional data may be collected, as needed, to complete the risk assessments. When the Remedial Investigation and Feasibility Study is completed, the remedy is selected, as described below,

4. Remedy Selection

After analyzing the contamination, human and environmental risks, and cleanup options, DTSC selects the cleanup remedy. The Remedy Selection document summarizes the results of the remedial investigation/site characterization, human health and ecological risk assessments, and feasibility study, and proposes a remedy for the site. This includes objectives for the cleanup, with, as appropriate, numeric cleanup goals for contaminants in each environmental medium. DTSC also prepares an environmental analysis in compliance with CEQA. The proposed remedy and environmental documents are made available to the public for review and comment, after which DTSC may revise the remedy. The final remedy is incorporated into a decision document called the Final Removal Action Workplan, Final Remedial Action Plan or Response Plan, and the remedy is implemented, as described in Step 5.

5. Implementation

The final stage in the Site Mitigation process is construction and implementation of the remedy. Depending on the type of remedy selected, construction and implementation may be the same, for example, if the remedy is to remove and replace soil. However, if the remedy involves a treatment system, such as pumping out groundwater, removing the contaminants, and then returning the treated groundwater to the aquifer, the pumping and treatment systems must be designed and built before the treatment is implemented. When a remedy leaves waste in place, implementation can also include long-term obligations to maintain the systems or barriers that prevent exposure to the waste.

Voluntary Cleanup Program Process Overview

The Voluntary Cleanup Program follows the same process as described above. The Community Profile is developed during the application process, and a community interest evaluation worksheet may be prepared. While many of the steps in this process are streamlined, the overall process remains the same including posting documents for the public comment period for remedial decisions and public outreach.

School Sites Process Overview

Legislation adopted and codified in 1999 requires school districts using state funds for land acquisition and/or classroom construction to obtain from DTSC certification that environmental factors on a proposed school site do not present a health risk to students. For many school sites, this is accomplished by an environmental assessment that evaluates past uses of the property. Other sites progress to a PEA before obtaining clearance from DTSC. A school district may elect to go through the RI/FS, remedy selection and implementation process, if needed. The following public participation activities are associated with Schools sites:

- If sufficient interest, DTSC can provide general information during the Phase I Environmental Site Assessment.
- If the site progresses to a PEA, the school district distributes a notice to residents and landowners in the immediate vicinity of the proposed school site. This is considered a presumptively vital document.
- Following the draft PEA, a public hearing is held by the school district to receive public comment on the CEQA document for the school and the draft PEA. DTSC will assist the School District in the following:
 - Developing a fact sheet or other informational notice describing the findings of the final draft of the PEA for publication in a newspaper of general circulation. This is considered a presumptively vital document.
 - Provide support at the school district's public hearing. If persons of limited English proficiency are likely to attend, DTSC works with the School District to ensure that translators are provided.
- If the school project is proceeding beyond the PEA phase, the following public participation activities will occur:
 - Conduct a baseline community survey.
 - Conduct other public participation activities described under general site mitigation, as needed.

Rule Development

Rule Development Process Overview

Most DTSC rulemaking actions follow the regular rulemaking process. The process is clearly defined and has seven components: 1) Scoping; 2) Preliminary Activities; 3) Analysis of Environmental Impacts; 4) Analysis of Economic Impacts; 5) Rule Proposal; 6) Consideration of Comments; and 7) Rule Adoption. Each of these components is discussed briefly below. DTSC provides, and in some instances the APA requires, opportunities for public participation throughout the Rule Development process; public participation opportunities are discussed separately and in more detail.

1. **Scoping:** The Scoping stage of the rulemaking process involves a review of DTSC's existing statutory and regulatory authority, an evaluation of DTSC's regulatory needs, and, if regulatory needs are identified, the development of a time table for development of a rulemaking package proposing regulations intended to meet DTSC's needs. DTSC may undertake rulemaking in response to specific statutory direction or to update, clarify, or enhance its existing statutory or regulatory authority. DTSC, through OETJA and other programs, engages communities to better understand their needs and concerns, and works with program staff to identify opportunities to use and improve existing tools and authorities to better address those needs and concerns. DTSC also operates a Regulatory Assistance program that provides compliance assistance to businesses and support for local CUPAs. Staff also reviews complaints about environmental conditions to identify sectors where additional regulation may be needed.

Each year, DTSC identifies its anticipated rulemaking for the coming year and provides the information to OAL. The rulemaking calendar may be found on OAL's website at https://oal.ca.gov/publications/rulemaking_calendar/.

2. **Preliminary Activities:** Once DTSC identifies a subject area for rulemaking, DTSC department gathers information and develops regulatory concepts. This typically involves reviewing relevant information, which could include, for example, legal, technical, scientific, ecological, health, demographic and economic data; facility and site information; chemical and product data; and environmental fate and transport in air, water, soil, and soil vapor. The specific focus of DTSC's review will vary depending on the subject of the rulemaking. DTSC may solicit input from people who are interested in, or potentially affected by, the subject of the rulemaking, or who have specific expertise that might inform DTSC's review. DTSC may also prepare draft regulatory concepts for discussion in workshops or focused meetings. At the end of this stage of the rulemaking process, DTSC will develop a draft regulatory proposal and begin the environmental and economic analysis.

This draft document has not been approved by DTSC and is for discussion purposes only.

3. Analysis of Environmental Impacts: Rulemaking is a discretionary action that falls under the requirements of CEQA. Some types rulemaking are exempt from a detailed environmental impacts review, in which case DTSC documents the exemption. If the draft regulatory proposal is not exempt, DTSC prepares the appropriate environmental review document to evaluate the potential impacts of the draft regulation on the environment. The most detailed review includes preparation of an EIR. The draft environmental documents are proposed for public review and comment with the draft regulation.
4. Analysis of Economic Impacts: The APA requires an analysis of the potential economic and fiscal impacts of a regulatory proposal. This includes, for example, the total estimated costs to the private sector, and specifically small business, the estimated benefits of the regulation, and an analysis of alternatives to the draft regulation. The level of economic analysis will differ depending on whether the draft regulation is “major” (estimated costs or benefits exceed \$50,000,000) or “non-major” (estimated costs or benefits are less than \$50,000,000). The APA requires an economic impact assessment (EIA) for non-major regulations, or a more detailed standardized regulatory impact analysis (SRIA) for major regulations.
5. Rulemaking Proposal: To begin the formal APA process for rulemaking, DTSC must prepare, at a minimum, four documents:
 - Regulatory text, also referred to as “Express Terms,” that clearly identifies the changes that are being proposed to the California Code of Regulations. Proposed new text is underlined and deleted text is shown in strike-through format. The proposed text must also include authority and reference citations that identify the statutes authorizing the rulemaking.
 - A Notice of Proposed Action (NOPA) that describes the nature of the proposed regulatory changes, including findings, determinations, and the statutory and legal authority allowing DTSC to adopt the rule. The NOPA summarizes the results of the EIA, and also includes information about how to submit comments, deadlines, hearings, as well as where to find copies of key rulemaking documents.
 - An Initial Statement of Reasons (ISOR) that explains why DTSC is proposing the regulation, including the problem being addressed, the purpose of and necessity for the proposed changes, as well as associated benefits. The ISOR also includes other analyses, such as anticipated impacts on schools, and state and local government; potential impacts on housing costs; and whether the draft regulation conflicts with or duplicates a federal statute or regulation.
 - An Economic and Fiscal Impact Statement (Form STD. 399) and any supporting documents. Form 399 is a required by the Department of Finance. It includes

This draft document has not been approved by DTSC and is for discussion purposes only.

information on the estimated economic and fiscal impacts of the proposed regulation, and must be signed by DTSC's Director.

The rulemaking package includes, at a minimum, these four documents. It also includes the required CEQA document. DTSC prepares the rulemaking package and submits it to OAL for publication. When OAL publishes the proposed regulation in the California Regulatory Notice Register, the formal APA rulemaking process is officially opened for public comment. The comment period must be open for at least 45 days, and may be extended at DTSC's discretion. DTSC holds at least one public hearing to receive oral and written comments on the proposed regulation.

6. Consideration of Comments: DTSC reviews all of the comments received on the proposed rulemaking package, and considers whether any changes to the proposed regulation are needed to address the comments submitted. DTSC also prepares responses to each of the comments received. The summary and response to comments is included as part of the rulemaking file in a document called a Final Statement of Reasons.

If DTSC makes substantial changes to the proposed regulation, the department notifies the public of those changes before adopting the regulation. Substantial changes that are sufficiently related (i.e., reasonably foreseeable based on the notice of proposed action) must be made available for public comment for at least 15 days. If a change is substantial, but not sufficiently related to the original proposal (i.e., not reasonably foreseeable based on the notice of proposed action), the agency must then publish another 45-day notice in the California Regulatory Notice Register similar to the original notice of proposed action. These changes are uncommon.

7. Rule Adoption: The Director of DTSC, or his or her designee, approves the final regulation, certifies the final EIR, if applicable, and submits the final rulemaking package to OAL. The final rulemaking package includes, at a minimum:

- The text of the final regulation;
- The Final Statement of Reasons;
- (FSOR); and
- The Final Form 399 signed by the Department of Finance.

DTSC must transmit the final rulemaking package to OAL for review within one year from the date that the notice was published in the California Regulatory Notice Register. Once submitted, OAL has 30 working days to conduct a review of the rulemaking record to ensure that the agency satisfied the requirements of the APA and OAL's regulations. OAL will then either approve the rulemaking action and file the proposed regulation with the Secretary of State or disapprove the rulemaking action.

This draft document has not been approved by DTSC and is for discussion purposes only.

Final regulations become effective on the first day of the quarter after OAL files the regulation with the Secretary of State—that is, January 1st, April 1st, July 1st, or October 1st.

Emergency Rulemaking Process

The emergency rulemaking process generally includes a brief public notice and public comment period, followed by review by OAL and an OAL decision. For an emergency regulation to be approved, DTSC must show that an emergency situation exists. An “emergency” means “a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.” (Government Code section 11342.545.). Sometimes legislation will identify the emergency necessitating the rulemaking package; otherwise, DTSC must make a finding of emergency by describing specific facts supported by substantial evidence that demonstrate the existence of an emergency and the need for immediate adoption of the proposed regulation. Emergency regulations are effective for 180 days after approval, and may be extended twice by up to 90 days for each extension.

The emergency rulemaking process has three steps, including: 1) Filing Notice of the Emergency; 2) Filing the Proposed Emergency Rulemaking; and 3) Approval of the Emergency Regulation.

1. Filing the Notice of the Emergency: DTSC posts a notice of the emergency that includes:
 - The text of the proposed emergency regulation;
 - The Finding of Emergency, including a statement pursuant to Chapter 1 of the California Code of Regulations, Section 48, and the justification for the emergency action; and
 - Supporting materials, including: a summary of the action; and a brief summary of impacts, such as anticipated impacts on schools and state and local government; potential impacts on housing costs; and whether the draft regulation conflicts with or duplicates a federal statute or regulation.

2. Filing the Emergency Regulation: DTSC files the proposed emergency regulation with OAL, including:
 - The text of the proposed emergency regulation;
 - The Finding of Emergency, including a statement pursuant to Chapter 1 of the California Code of Regulations, Section 48; the justification for the emergency action;
 - Fiscal Impact Statement and Form 399
 - The Form 400 Notice Publication
 - Supporting materials, including: a summary of the action; and a brief summary of impacts, such as anticipated impacts on schools, and state and local government;

This draft document has not been approved by DTSC and is for discussion purposes only.

potential impacts on housing costs; and whether the draft regulation conflicts with or duplicates a federal statute or regulation.

- Emergency regulations are exempt from review under CEQA.

OAL publishes notice of the pending emergency action, and provides the public with a period of 5 calendar days to submit comments on the action.

3. Approval of the Emergency Regulation: OAL has 10 days to review the proposed action. OAL will then either approve the rulemaking action and file the proposed regulation with the Secretary of State or disapprove the rulemaking action.

Safer Consumer Products

Safer Consumer Products Process Overview

The SCP regulations establish a four-step process for:

1. Identifying potential harmful chemicals;
2. Evaluating the safety of those chemicals in products;
3. Assessing potentially safer alternatives; and then
4. Determining how best to minimize the potential for adverse impacts to human health and the environment.

Step 1 - Candidate Chemicals: DTSC identifies potentially hazardous chemicals based on the work of authoritative bodies from around the world in its Candidate Chemical List. DTSC updates its informational Candidate Chemicals List quarterly to reflect any changes in the referenced authoritative lists. The SCP regulations include a petition process to allow any stakeholder to request that DTSC add or delete chemical lists from, or add individual chemicals to, the Candidate Chemicals List.

Step 2 - Priority Products: DTSC evaluates and prioritizes product-Candidate Chemical combinations to develop a list of "Priority Products" for which a safer alternative should be sought. The key criteria for product prioritization are that there must be potential human or environmental exposure to a Candidate Chemical in the product, and there must be the potential for the exposure to contribute to, or cause significant or widespread, adverse impacts. Note that DTSC must adopt individual Priority Products via a formal rulemaking process under the Administrative Procedure Act (APA) to trigger Steps 3 and 4.

When prioritizing products, DTSC gives special consideration to the potential for a chemical to cause harm to sensitive subpopulations, as well as environments in California that have been designated as impaired by a California State or federal regulatory agency. Sensitive

This draft document has not been approved by DTSC and is for discussion purposes only.

subpopulations are subgroups of the general population that are identifiable as being at greater risk of adverse health effects when exposed to one or more hazardous or toxic chemicals. Examples include infants, children, pregnant women, and elderly individuals. Sensitive subpopulations also include individuals at a greater risk of adverse health effects when exposed to chemicals because they either have a history of serious illness or greater exposures to chemicals, or are workers with greater exposures to chemicals due to the nature of their occupation. To date, DTSC has investigated several products on the basis of worker health concerns.

DTSC publishes a Priority Product Work Plan every three years that describes product categories from which DTSC will select Priority Products. The Work Plan provides signals to the market about the types of products DTSC will research and provides manufacturers ample opportunity to consider safer alternatives in advance of any formal rulemaking process (it is not a regulatory document). The Work Plan also includes stated policy priorities about what environmental and health issues DTSC is trying to mitigate.

Step 3 - Alternative Analysis: Following the formal rulemaking process to list a “Priority Product,” responsible entities such as manufacturers must perform an Alternatives Analysis (AA) to determine how best to limit or prevent potential harm from the product's Candidate Chemical. The AA is a comprehensive evaluation of possible ways to make the product safer. SCP shifts the burden of determining what is safe from downstream users and regulators to the manufacturers of the products. The AA process is designed to avoid regrettable chemical substitutions and promote product innovation.

Step 4 - Regulatory Response: DTSC identifies and implements Regulatory Responses designed to protect public health or the environment based on AA Reports submitted by the manufacturers of the Priority Product. Regulatory Responses will be enforceable orders or agreements to manufacturers that may require: further research, providing information to DTSC or consumers, making product design changes, establishing end-of-life product stewardship programs for hazardous wastes, or restricting the sale of the Priority Product. By maintaining the authority to restrict the sale of products as a potential Regulatory Response, DTSC provides manufacturers with a compelling incentive to consider safer alternatives in advance of any formal rulemaking.



SCP engages the public throughout the process of identifying, selecting, listing, and regulating Priority Products. The SCP program conducts workshops and holds open comment periods for non-regulatory deliberations – development of guidance on the AA process, consideration of the three-year Priority Product Work Plan, etc. The regulations require pre-regulatory workshops on any proposed Priority Products. Priority Product listing is a public rulemaking process governed by the APA. Manufacturer-submitted AA Reports are posted for public review comment. These mechanisms ensure transparency throughout DTSC’s decision-making process.

DTSC has developed an online information management system known as CalSAFER to facilitate stakeholder communication. DTSC uses CalSAFER to publish documents, solicit public comment on specific SCP actions and documents, and allow regulated entities to submit supporting documents electronically. CalSAFER will also be where DTSC publishes manufacturer-submitted AA Reports, making them available to the public. The tool is integral to SCP’s ability to ensure transparency and public input throughout its processes and decisions.

Public Participation

Public Participation Process Overview

Public participation is an integral part of the site mitigation and hazardous waste management processes and is the responsibility of each DTSC employee who has a role in DTSC’s decision-making process. The role of the DTSC Public Participation Specialist is to initiate and maintain a

This draft document has not been approved by DTSC and is for discussion purposes only.

two-way conversation, and to prepare and provide information for the public. A well-planned public participation program, fully integrated into the overall technical program, is a key factor in successful site remediation, corrective action, permitting, and other DTSC activities.

DTSC works to create a dialogue with all stakeholders to ensure that their concerns and priorities are incorporated into decision-making. The department's approach is founded on a proactive public participation program that encourages community involvement by providing for the free flow of information to and from the community, as well as identifying and considering community concerns.

Public participation is designed to:

- Ensure that the public is involved early and throughout DTSC's decision-making process;
- Establish an ongoing two-way communication process that provides information in a clear and understandable manner to the layperson;
- Respond to questions and concerns in a relevant and timely fashion; and,
- Consider public concerns when determining final decisions on projects.

Some form of community assessment may be used to determine the level of community interest. Different types of community assessment and are outlined in detail in DTSC's Public Participation Manual. Following the community assessment, a Public Participation Plan is developed. This is essentially DTSC's road map for the community on how and when communication will take place. The Public Participation Plan is also a key tool for assuring fair and equal access. As communities are fluid, the Public Participation Plan is considered a "living" document, one that changes as the level of and need for public involvement changes.

Access Considerations for Public Events

DTSC is committed to an open and constructive communication process. DTSC affirms the public has a right to information that affects its quality of life. Access to meetings and other events the public attends involves both physical access and language access.

Public Meetings - General

There are several types of public meetings which may be conducted during the site mitigation or hazardous waste management processes. In addition, DTSC holds public meetings to review regulatory proposals, to take input on initiatives, and to provide information and updates to the public.

Several factors are considered by DTSC when arranging public meetings. Specifically, attention is given to the time, location and accessibility of the meeting considering what members of the public it is intended to reach. DTSC strives to arrange meetings at locations that are easily accessible by the interested community, and at times when community members are less likely to be working and unavailable. Locations are physically accessible for individuals using

This draft document has not been approved by DTSC and is for discussion purposes only.

wheelchairs or other mobility support, and those needs are considered in the set-up of the room, including width of aisles, placement of chairs, microphones, visual aids, and other materials. DTSC also ensures accessibility through the presence of interpreters for LEP individuals as needed.

Overall, public meetings provide DTSC a critical opportunity to interface with interested communities and ensure a dialogue occurs. This subsection identifies the types of meetings which may be used during a project and those activities required to conduct each type of meeting.

Information about all public events should be provided in advance to inform members of the public and allow them to arrange to participate. The length of advance notice may vary depending on the nature of the event, and may also be specified in law or regulation. Events can be announced in a variety of ways, including:

- Flyers sent directly to each name on the mailing list, including bilingual translation if needed;
- Flyers posted at community-identified information centers, such as schools, places of worship, post offices, and local markets, including bilingual translation if needed;
- Telephone calls to key community leaders, with interpretation as needed;
- Display advertisements in local newspapers, including periodicals in languages other than English;
- Public service announcements or paid advertisements on local radio and television stations, including those broadcasting in languages other than English;
- Via social media, in translation as applicable;
- On DTSC's website (translation as applicable, or via Google Translator);

It is important to note that the CRIP only applies to DTSC run meetings, notices and newsletters. DTSC is not able to dictate what methods other entities will use to convey information that may relate the project. This means any newsletters sent out by community groups, or announcements at city council, neighborhood council, community based organizations or other entities' meetings will be interpreted or translated at the discretion of the hosting organization.

Public Meetings - Briefings

Briefings are designed to provide project participants with the information they need to answer questions they are likely to receive about the site. Briefings can be held for one or more participants.

This draft document has not been approved by DTSC and is for discussion purposes only.

Briefings regarding cleanup or permitted sites generally are held at key points in the regulatory process and as significant findings become available or decisions are proposed. For cleanup sites, this would generally be during site investigation and cleanup, and for permitted sites it would occur in the permit or closure plan determination process and as significant findings become available or decisions are proposed. Factors to use in determining specific sites for which DTSC might hold briefings on a regular basis include, but are not limited to, sites which are highly controversial or in which the community has expressed a high level of interest.

Briefings should be clearly focused, and should not last for more than one or two hours. Once the initial briefing has been done, future briefings may consist of 5 to 30 minutes.

The format should:

- Identify and define the varied interests of those invited to the briefing.
- Provide a briefing agenda that covers the relevant points, allowing time in the agenda for participants to ask questions about issues of particular interest.
- Make good use of graphics and visual aids in the presentations.
- Provide participants with handouts that explain important aspects of the briefing. These handouts should be designed so that officials can refer to them when the briefing is over and be fully versed in the briefing topic.

Public Meetings – Workshops

Workshops are semi-structured gatherings or seminars to assist the public to better understand complex or technical project-specific issues. These discussions are usually led by DTSC project staff, and may include individuals from other regulatory agencies, Responsible Parties and project proponents, or others with technical expertise in specific areas. A key difference between a workshop and a community meeting is the workshop's emphasis on sharing information in a more interactive way. Following a brief introduction, participants may break into small groups to focus discussion on designated project issues. Small group size and "round table" format allow for more information discussion than is usually possible in a community meeting. Workshops allow both agency staff and community members to become more familiar with the individuals and issues involved in a site. A more detailed discussion of the role of workshops in the cleanup and permitting processes can be found in the Public Participation Manual.

Access considerations for public workshops include, as appropriate:

- Establish a greeting area and staff greeters to welcome attendees, including bilingual staff as needed;
- Ensure all written materials (including sign-in sheets, agendas, handouts, evaluation forms, etc.) are available in translated formats, identified and prepared in advance;

This draft document has not been approved by DTSC and is for discussion purposes only.

- Provide a sign-in Sheet, with Public Records Act disclosure statement;
- Organized distribution, as applicable, of simultaneous translation equipment;
- Agenda explaining options for discussions;
- Public address (PA) system for remarks;
- Interpretation, as applicable, for LEP commenters;
- One large room or several small rooms to accommodate group discussions, including physical access considerations;
- Arrange tables in a circle or another configuration that facilitates discussion and provide sufficient aisle width and space for wheel chairs at the tables;
- Ensure staff at each table or discussion area have appropriate expertise for each topic discussed, and that interpretation is available if staff is not bilingual;
- Handouts for each technical area discussed, translated as identified for LEP individuals under the Language Access Policy;
- Consider using a “floater” during workshops, to move from table to table to facilitate engagement and ensure fair and equal access;
- Evaluation forms, translated as applicable.

All written notification should include the name, address, and telephone number of DTSC staff whom interested individuals can contact for more information.

Public Meetings – Open House

Open houses are informal gatherings at which community members drop in and talk directly with individual DTSC staff or other specialists about specific concerns and questions. Open houses may be held to maintain contact between the community and DTSC staff, to update the community on a long-term project and between technical milestones. An open house can be initiated by DTSC or upon request of a community.

Open houses differ from community meetings and workshops in several ways. There is no set agenda and no formal presentations are given. Community members do not arrive at the same time; rather, attendance is spread over a period of several hours, allowing people to attend at their convenience. Transcripts/summaries of the meeting are not prepared, and any issue of interest may be discussed during the open house, while workshops generally focus on issues identified in advance.

Open houses provide an excellent opportunity to develop a dialogue with community members. They provide a forum for community members who may feel uncomfortable asking questions at a public meeting to have their concerns addressed. In addition, community members arrive and depart at their convenience, and have more control over how much time they spend engaging with staff and receiving information.

This draft document has not been approved by DTSC and is for discussion purposes only.

Access considerations for an open house include:

- Establish a greeting area and staff greeters to welcome attendees, including bilingual staff as needed;
- Staff greeters should inquire about each attendee's general concerns, and direct that person to the appropriate information table;
- Provide a sign-in Sheet, with Public Records Act disclosure statement;
- Ensure staff at each table have appropriate expertise for each topic discussed, and that interpretation is available if staff is not bilingual;
- Monolingual speakers of languages other than English may be assigned an interpreter when they arrive to accompany them throughout the duration of the workshop;
- Ensure all written materials (including sign-in sheets, agendas, handouts, maps, visual aids, evaluation forms, etc.) are available in translated formats, as identified and prepared in advance;
- Identification labels should be placed above each information table to aid attendees in locating their area of interest or concern, and should be translated as applicable;
- Handouts should be available at information tables (e.g., fact sheets, reports, executive summaries, charts, or background literature) for attendees to take home, with translated materials at each table or in a centralized and clearly identified location;
- If an open house is held during a public comment period, forms should be available which allows the public member to leave written comments, translated as applicable;
- Ensure that a collection box for comments is available and visible. Additionally, staff may be on hand to record verbal comments, with interpretation, as applicable;
- Consider using a "floater" during open houses. The role of a floater is similar to that of a facilitator and supports interactions between the community and DTSC and others staffing the open house; and,
- Encourage all attendees to fill out an evaluation form (available in translation, as applicable), which can be used later to evaluate the usefulness of open house.

Notification about the open house should be made using the same strategies identified for workshops. Notices should explain the open house format. Room size is also a key logistical factor; the room must be large enough to accommodate several "information tables" at which staff will be stationed to talk with community members, as well as adequate table and aisle space to accommodate wheel chairs and other mobility support.

Public Meetings – Community Meetings

Community meetings are one of the most commonly used public participation activities to explain project issues to community members and to respond to questions and concerns.

This draft document has not been approved by DTSC and is for discussion purposes only.

Because community meetings usually involve large numbers of people it is essential to plan and prepare properly. Some meetings are required by law or regulation at certain points in regulatory processes. Other meetings are held at the discretion of the Project Manager or Public Participation Specialist. Some of the factors that indicate whether a community meeting is appropriate include:

- Regulatory/statutory requirements;
- Size and needs of intended audience;
- Types of information to be conveyed;
- Specific issues of repeated concern;
- Number of different groups that have contacted DTSC for information on the facility, and the frequency of communication;
- Media coverage of the facility;
- Level of interest in the community;
- Complexity of the proposed facility permit or closure plan;

Access considerations for community meetings include:

- Establish a greeting area and staff greeters to welcome attendees, including bilingual staff as needed;
- Ensure all written materials (including sign-in sheets, agendas, handouts, evaluation forms, etc.) are available in translated formats, identified and prepared in advance;
- Provide a sign-in Sheet, with Public Records Act disclosure statement;
- Agenda explaining options for discussions;
- Public address (PA) system for remarks and microphone(s) for public comments placed to allow wheelchair access;
- Organized distribution, as applicable, of simultaneous translation equipment;
- Interpreter, as applicable, for LEP commenters;
- Evaluation forms, translated as applicable.

Public Hearings - General

The purpose of the public hearing is to solicit public comments on the draft regulatory decision. A public hearing is a formal process for the agency to receive comments from the public. In contrast to community meetings, a public hearing offers limited two-way communication between the public and DTSC. The California Code of Regulations requires that a minimum 30-day public notice be provided prior to a public hearing, and a public hearing cannot be scheduled until documents are placed in the repositories.

This draft document has not been approved by DTSC and is for discussion purposes only.

Formal public notice of a public hearing for a project, including the hearing date, time, location, purpose, and where to call for additional information, must be placed in a display advertisement in a local newspaper of general circulation. The notice should be translated, as applicable, for LEP individuals. The public hearing notice must also be distributed to the project mailing list. For proposed rulemaking, notice is provided through the Office of Administrative Law. In addition, public hearing notices should be posted on DTSC web site, and made available by e-mail notices to those who have requested to be informed. Notices should be translated as applicable for LEP individuals. DTSC may also choose to use other means of notice as described for public meetings, but these may not be used in lieu of the required notice.

DTSC provides a brief overview at the hearing, explaining the purpose of the hearing and the key issues being decided. Following the presentation, the public is offered the opportunity to make comment for the record. The time allotted to commenters may be limited, based on the number of commenters and the time available for the hearing. If comment time is limited, LEP individuals must be afforded equal time allowing time for translation. A court reporter makes a record of comments made. A hearing officer presides over the hearing, and there is generally also a hearing facilitator to manage logistics.

Public Hearings – Hearing Officer

The hearing officer is the designated DTSC manager responsible for hearing and considering comments presented by the public. In addition, the hearing officer should make a brief presentation on the Department's regulatory role at the facility and the proposed action brought forth for public review. The hearing officer can provide the additional facility information which must be presented at the hearing, or this can be delegated to other program staff.

Public Hearings – Hearing Facilitator

DTSC generally provides a facilitator at public hearings. The facilitator's role is to manage the flow of communication during the hearing to ensure that all concerned residents have the opportunity to formally present their comments. The facilitator monitors the communication dynamics of the meeting, and adjusts the meeting format, agenda or other variables as necessary to keep the meeting productive for all parties.

- The Public Participation Specialist normally serves as meeting facilitator, although other staff may also fill this function as needed.
- The hearing officer can facilitate the meeting however, DTSC generally separates these two functions where possible.

Access considerations for public hearings include:

This draft document has not been approved by DTSC and is for discussion purposes only.

Regulations require that the public hearing be scheduled at a location convenient to the population center nearest to the proposed project, where applicable. Hearings on statewide issues are generally held in Sacramento.

- Suitable hearing rooms should comfortably accommodate 200 people or more, depending on the anticipated attendance;
- Possible hearing locations should be identified in the Public Participation Plan or by consultation with the Public Participation Specialist;
- Many cities and towns have community centers with rooms suitable for hearings, but smaller audiences meeting rooms in libraries or government centers may be more accessible;
- The location must be physically accessible, in compliance with the Americans with Disabilities Act;
- Ensure all written materials (including sign-in sheets, agendas, handouts, evaluation forms, etc.) are available in translated formats, identified and prepared in advance;
- Provide a sign-in Sheet, with Public Records Act disclosure statement;
- Provide an agenda, translated as applicable, explaining options for discussions;
- Public address (PA) system for remarks and microphone(s) for public comments placed to allow wheelchair access;
- Organized distribution, as applicable, of simultaneous translation equipment;
- Speaker request forms should be available in a clearly marked location, accessible to wheelchairs and other mobility support, and translated, as applicable for LEP commenters;
- Provide an interpreter, as applicable, for LEP commenters;
- Timer or time keeper if commenters will have limited time for comments, and LEP commenters must have equal time allowing for translation;
- Evaluation forms, translated as applicable.

Because comments become part of the public record, the facilitator should ask all commenters to give their names and addresses. If there is doubt about spelling, the facilitator should ask the commenters to spell names or street names. Attendees who wish to receive a written response to comments provided verbally at the hearing must complete the sign-in sheet at the public hearing, including contact information. All comments will be heard and seriously considered, including comments in languages other than English. LEP individuals who provide comments in a language other than English and request a written response will be responded to in their spoken language; the comment and response will also be included in the formal record in English.

Access Considerations for Materials Posted to Website

DTSC is currently redesigning its website to make it easier to navigate, improve the public's online experience, and increase effective communications.. As part of this process, DTSC is verifying the guidelines for web accessibility of web pages and web documents are met. This section will be updated to reflect changes to access features of the redesigned website as they are available.

Pages on the current website may be translated into many languages using the Google Translator feature found at the bottom of each web page. The identification of the default language for the DTSC website is properly identified for assistive technologies, such as braille translation software or speech synthesizers.

Community Assessments

The community assessment process allows DTSC to consider potential community interest and informational needs, in particular around a hazardous waste facility or a project site early in the technical process. Community assessment also helps DTSC to anticipate the nature of possible community concerns and inquiries and respond appropriately to those inquiries. During the community assessment, DTSC also conducts a "Language Access Assessment," to help determine the languages used in the targeted area and if languages other than English need to be considered to foster meaningful engagement between the community and DTSC. Several types of community assessment can be performed depending on what is already known about the community's level of interest, the significance of the project site or permit action being proposed, and staff resources available. These include:

- Community Profile - Required during Preliminary Environmental Assessment process, (thumbnail sketch of community, newspaper articles), and provided by the Responsible Party.
- Baseline Community Survey - Required prior to commencement of remedial investigation to corrective action and closure projects. Evaluate potential interest in a project. This is also done for facility permits.
- Community Interviews - Required prior to commencement of Remedial Investigation/Feasibility Study field work. This is required for "high" community interest removal actions, facility permits, and RCRA Facility Investigation (RFIs).

The decision on what type of assessment is appropriate in a given situation is to be made by the Public Participation Specialist assigned to the project using the following guidelines.

This draft document has not been approved by DTSC and is for discussion purposes only.

The first step in the community assessment process is to do a rough evaluation of potential community interest at a given site/facility. To evaluate the level of community interest at a site/facility, project staff should review the following:

- Review DTSC files and records of public inquiries about the site or facility.
- Review DTSC public participation file, if one already exists.

If not, this is the time to create a public participation file. A community profile is a report submitted to DTSC by a proponent/applicant/responsible party under the Fee-For-Service or Voluntary Cleanup programs, or as part of the Preliminary Endangerment Assessment (PEA) process. The profile is used to obtain a “thumbnail sketch” of a community. This is necessary to evaluate whether public involvement activities are warranted at a given time and to identify sites or facilities with “high” community interest or concern early in the process.

Community Profile - Overview

The Preliminary Endangerment Guidance Manual (1994), requires that a community profile be prepared as part of each Preliminary Endangerment Assessment (PEA). Community profiles for school sites with recommendations for further action should be prepared during the PEA Public Comment Period conducted by the school district. The school district should submit the community profile to DTSC for review and approval upon completion of the public comment period. A community profile is also submitted to DTSC by a project proponent under the Voluntary Cleanup program. The community profile should be submitted by the project proponent, along with the Preliminary Endangerment Assessment work plan. This profile must be reviewed by a Public Participation Specialist to determine what activities are warranted.

The following criteria can be used as general guidelines for evaluating whether the level of community interest is “high” or “low” for a specific project. No single answer will necessarily determine if a project is of high interest, rather the answers should be evaluated by the Public Participation Specialist and program project manager as a whole. This determination is useful for developing an appropriate and responsive public participation program. These are only general guidelines and cannot replace a site-specific community assessment. Also, it should be recognized that community interest may change at any point during the site mitigation or hazardous waste management process. Therefore, the DTSC staff and Public Participation Specialist should monitor community interest.

- Proximity of the site to residences, schools or businesses or other sensitive populations.
- Likelihood that the site may pose a risk to public health or the environment (presence of clear exposure pathways, such as ground or surface waters, dust, odors or prevailing winds, by which contaminants could reach humans or wildlife).

This draft document has not been approved by DTSC and is for discussion purposes only.

- Level of local community concern about potential health risks from the site, or potential impacts of the site, or actions at the site, on property values or other quality of life considerations.
- Level of interest previously demonstrated by the community in toxics or other environmental issues.
- Level of familiarity and concern of local residents, officials, and/or other agencies with the project.
- The designated of the area using CalEnviroScreen.
- The level of media coverage or other organized community activity about the site.
- The level of trust the local communities have in DTSC.
- The presence of other hazardous waste facilities or sites within one geographical location (e.g., city limits or particular neighborhood).
- The quality of the relationship between the project proponent and the community.

Community Profile - Outline

- Site/Project Description. What is the nature of the project? Are there suspected or known releases of hazardous substances? What are they? What is the stage of the project; PEA, site investigation? Is it a hazardous waste facility permitting/ closure project? Describe. Is it part of a larger site or facility? Is there a schedule for completion? What are the current /past business operations at the site?
- Location and size of site/project. Address and size of the site.
- Location of other nearby Cal/EPA or U.S. EPA projects, if known.
- Description of surrounding land uses and environmental resources including proximity to residential housing, schools, churches, etc. What is the current zoning/land uses for the site and for immediate surrounding land? Are there agricultural, wetlands or other environmental resources nearby? What is the nearest residence, school, day care center and other sensitive receptors? Are there planned changes in land use?
- Provide a map of the site and immediate vicinity.
- Demographics of the community in which the site is located. Population, socioeconomic level, ethnic composition, specific language considerations (for possible translation of information), and the local government organization (city council, county board).
- Local Awareness and Interest. Does the community have any awareness of the project as a hazardous substance release or permitting facility? Have there been meetings, presentations, or other outreach efforts taken to inform the community about the site?
- Document any prior or current efforts undertaken to inform the community of the site.

This draft document has not been approved by DTSC and is for discussion purposes only.

- **Contacts by community members.** Have there been contacts or inquiries from individuals or groups regarding the site? Include their names, phone number(s), email addresses if known, and address on the Key Contact List.
- **Media Coverage.** Has there been any newspaper, magazine, or television coverage related to the site? (Include copies of articles, if available.)
- **Government involvement.** Has there been or is there currently any other government involvement with the site? City or county staff, elected officials, other regulatory agencies?
- **Key Contact List.** Provide names, addresses, and phone numbers of key local officials including city manager, city/county planning department and environmental health department contacts, other involved agency contacts, and community members with whom there has been contact on the site including any environmental or other groups which may have potential interest in the site.
- **Provide a list of adjacent property owners and leasers/renters.** These names provide the initial step in formation of the Department site mailing list.

Community Profile – General Questions

- Are there any specific concerns or issues raised by the community regarding the site or operational activities conducted at the site? Health concerns, property value concerns, land use concerns, other.
- Any anticipated concerns/issues regarding the site? If the community is unaware of the site, what are the anticipated concerns/issues.
- Level of concern: Is there or is there anticipated to be low or high level of concerns? Is significant controversy expected?
- Any general environmental concerns or other projects with high controversy in the community? Have environmental or other citizens groups shown interest in other sites or issues in the past? Which groups? What sites/issues?
- How does the community wish to communicate? electronically? written? meetings? Preferred languages?

Community Profile - Recommended Public Participation Activities

Does the Public Participation Specialist recommend public participation activities beyond those required by regulation or law? Is some additional community assessment merited? Is a Public Participation Plan in order? What further meetings may be needed?

Baseline Community Survey - Overview

This draft document has not been approved by DTSC and is for discussion purposes only.

A baseline community survey (also referred to as a community survey) is a process conducted by a Public Participation Specialist, utilizing questionnaires, display ads and telephone interviews, from H&S Section 25358.7 (b). It is also an opportunity to introduce a project to a community and get some early feedback, including information on sensitive receptors. A baseline community survey cannot take the place of community interviews, which are necessary prior to the development of a Public Participation Plan.

A baseline community survey can be performed at the earliest stages of a project. A baseline community survey also can be a useful tool to monitor community interest during the life of a project or evaluate the impact of a change in circumstances. Community surveys are ideal for evaluating new projects to obtain a general idea of the level of community interest. For known “high” community interest facilities, community interviews should be conducted.

Baseline Community Survey - Process

- Develop project mailing list;
- Send out an introductory letter describing the proposed project, DTSC’s role, and public involvement opportunities. Include with the letter, a questionnaire asking about knowledge of, interest in, or concern about project, as well as how to best work with this community; and,
- Review responses received to obtain feedback on community interest and/or concern. Consider number of responses received (10% is usually a good response to such a mailing), as well as the specific comments provided.
- Prepare a summary of information received from questionnaires, phone interviews, and/or display ads.
- Develop a public involvement strategy, which is responsive to needs identified by the community; this should include whether additional community assessment efforts are warranted as well as any other public participation activities that are anticipated for the project.

A written survey can be enhanced by the following methods:

- Conduct a limited number of telephone interviews with key community leaders (usually 7-10 interviews) for additional information about community and issues.
- Place a display ad in local newspapers, describing the proposed project, DTSC’s role, and public involvement opportunities. Include a DTSC contact and a tear-out coupon which can be returned for additional information and to be added to the project mailing list.
- Conduct a drive-by site/facility inspection to gather more information (particularly sensitive receptors and vulnerable populations) about the community.

Community Interview - Overview

Community interviews are individual, in-person interviews, conducted by the Public Participation Specialist and the Project Manager with community members, local officials, and other interested parties to:

- Identify the geographical boundaries interested community;
- Obtain historical information about the site/facility;
- Assess community issues and concerns;
- Evaluate level of awareness about a project;
- Obtain an understanding of past community involvement in this or other similar projects;
- Receive input on how to best involve the community in the site mitigation or permit process;
- Begin to establish a relationship with local agency and community representatives;
- Languages other than English spoken by community members;
- Ability to send/receive electronic correspondence or access to the internet.

For cleanup projects, community interviews are the first step in the development of a Public Participation Plan. For Hazardous Waste Management projects, community interviews should be done for any “high” community interest facilities, when review of the Part B permit application begins or when corrective action is initiated. This determination may change for a facility at any time. Interviews can also be done at other times during the site mitigation process, as needed, in order to evaluate changing community make-up, interests, needs or concerns. The Public Participation Specialist is responsible for determining when community interviews are necessary.

Community interviews are a time-intensive activity because of the large amount of organization required and time needed for interviews. While the level of effort will vary, each interview may require four hours for research and preparation, the interview itself, and follow-up activities.

Community Interview - Process

A general outline for a community interview process includes the following:

- Identify need for interviews.
- Identify interview scope.
- Identify need to conduct interviews in languages other than English.
- Prepare/approve questions.
- Conduct interviews.
- Review assessment summary (write for state-led sites or permit).

This draft document has not been approved by DTSC and is for discussion purposes only.

- Approve the list of interviewees.
- Schedule interviews.
- Suggest interview participants.
- Review and make recommendations on questions.
- Participate in interviews.
- Comment on summary.

For purposes of community interviews, the following is a preliminary list of individuals to consider interviewing:

- Residents located close to the site/facility
- Workers and users at local hospitals, schools, parks, day care centers
- Community-based, local and regional environmental groups
- Community-based local and regional health organizations
- Businesses located close to the site/facility
- Local chapters of organized voter engagement groups
- Parent-Teachers Associations and school principals
- Chambers of Commerce and other civic groups
- Appropriate City Council Member(s)
- City Planning Department
- County Supervisor(s)
- University or community college leaders
- Representatives of State and local agencies such as the Regional Water Quality Control Board (RWQCB) and the Air District
- Representatives of the local Public or Environmental Health Department
- State legislators
- Federal legislators (federal legislators are only required at federal sites or RCRA facilities or NPL sites and should be considered at “high” profile state sites/ facilities).

At the conclusion of the community interview process, the information gathered will inform and improve the final baseline community assessment.

Community Profile - Outline

- Site/Project Description. What is the nature of the project? Are there suspected or known releases of hazardous substances? What are they? What is the stage of the project; PEA, site investigation? Is it a hazardous waste facility permitting/ closure

This draft document has not been approved by DTSC and is for discussion purposes only.

project? Describe. Is it part of a larger site or facility? Is there a schedule for completion? What are the current /past business operations at the site?

- Location and size of site/project. Address and size of the site.
- Location of other nearby Cal/EPA or U.S. EPA projects, if known.
- Description of surrounding land uses and environmental resources including proximity to residential housing, schools, churches, etc. What is the current zoning/land uses for the site and for immediate surrounding land? Are there agricultural, wetlands or other environmental resources nearby? What is the nearest residence, school, day care center and other sensitive receptors? Are there planned changes in land use?
- Provide a map of the site and immediate vicinity.
- Demographics of the community in which the site is located. Population, socioeconomic level, ethnic composition, specific language considerations (for possible translation of information), and the local government organization (city council, county board).
- Local Awareness and Interest. Does the community have any awareness of the project as a hazardous substance release or permitting facility? Have there been meetings, presentations, or other outreach efforts taken to inform the community about the site?
- Document any prior or current efforts undertaken to inform the community of the site.
- Contacts by community members. Have there been contacts or inquiries from individuals or groups regarding the site? Include their names, phone number(s), email addresses if known, and address on the Key Contact List.
- Media Coverage. Has there been any newspaper, magazine, or television coverage related to the site? (Include copies of articles, if available.)
- Government involvement. Has there been or is there currently any other government involvement with the site? City or county staff, elected officials, other regulatory agencies?
- Key Contact List. Provide names, addresses, and phone numbers of key local officials including city manager, city/county planning department and environmental health department contacts, other involved agency contacts, and community members with whom there has been contact on the site including any environmental or other groups which may have potential interest in the site.
- Provide a list of adjacent property owners and leasers/renters. These names provide the initial step in formation of the Department site mailing list.

Community Profile – General Questions

This draft document has not been approved by DTSC and is for discussion purposes only.

- Are there any specific concerns or issues raised by the community regarding the site or operational activities conducted at the site? Health concerns, property value concerns, land use concerns, other.
- Any anticipated concerns/issues regarding the site? If the community is unaware of the site, what are the anticipated concerns/issues.
- Level of concern: Is there or is there anticipated to be low or high level of concerns? Is significant controversy expected?
- Any general environmental concerns or other projects with high controversy in the community? Have environmental or other citizens groups shown interest in other sites or issues in the past? Which groups? What sites/issues?
- How does the community wish to communicate? electronically? written? meetings? Preferred languages?

Community Profile - Recommended Public Participation Activities

Does the Public Participation Specialist recommend public participation activities beyond those required by regulation or law? Is some additional community assessment merited? Is a Public Participation Plan in order? What further meetings may be needed?

Community Interview - Process

A general outline for a community interview process includes the following:

- Identify need for interviews.
- Identify interview scope.
- Identify need to conduct interviews in languages other than English.
- Prepare/approve questions.
- Conduct interviews.
- Review assessment summary (write for state-led sites or permit).
- Approve the list of interviewees.
- Schedule interviews.
- Suggest interview participants.
- Review and make recommendations on questions.
- Participate in interviews.
- Comment on summary.

For purposes of community interviews, the following is a preliminary list of individuals to consider interviewing:

- Residents located close to the site/facility

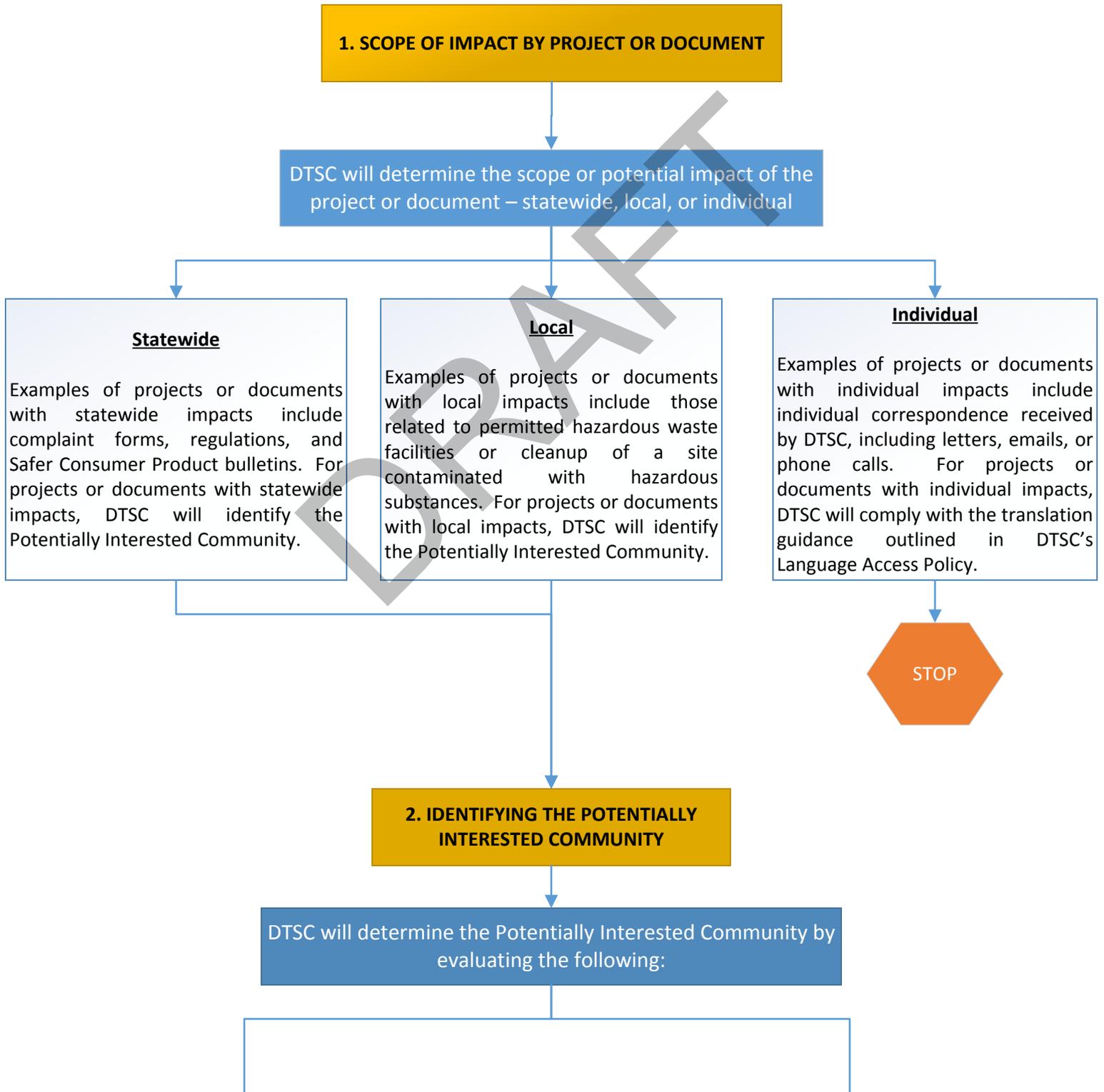
This draft document has not been approved by DTSC and is for discussion purposes only.

- Workers and users at local hospitals, schools, parks, day care centers
- Community-based, local and regional environmental groups
- Community-based local and regional health organizations
- Businesses located close to the site/facility
- Local chapters of organized voter engagement groups
- Parent-Teachers Associations and school principals
- Chambers of Commerce and other civic groups
- Appropriate City Council Member(s)
- City Planning Department
- County Supervisor(s)
- University or community college leaders
- Representatives of State and local agencies such as the Regional Water Quality Control Board (RWQCB) and the Air District
- Representatives of the local Public or Environmental Health Department
- State legislators
- Federal legislators (federal legislators are only required at federal sites or RCRA facilities or NPL sites and should be considered at “high” profile state sites/ facilities).

Appendix F: Vital Documents and Information Translation/Interpretation Evaluation Framework

VITAL DOCUMENTS AND INFORMATION TRANSLATION/INTERPRETATION EVALUATION FRAMEWORK

This process diagram is intended to provide a broad overview of the general framework that DTSC applies in determining whether to translate or interpret vital documents and information into languages other than English. Individual DTSC units, offices, or programs, may modify this framework to meet the specific needs of their unit, office, or program. Additionally, there may be project-specific circumstances that necessitate or warrant that DTSC deviate from this framework, and DTSC retains its discretion to determine what vital documents and information necessitate translation or interpretation. As needed the Office of Civil Rights and Office of Legal Counsel will be consulted to assist in this decision process.



Projects and documents with statewide impacts

Whether DTSC has any specialized knowledge or information that assists it in identifying the Potentially Interested Community, including whether:

- Statewide reports related to impacted populations.
- Evidence of significant or widespread adverse impact to an LEP population.
- Communications with labor organizations.
- Communications with NGOs (such as the CHANGE Coalition or the Healthy Nail Salon Collaborative).
- Self-identified populations.
- Manufacturer identified subgroups including workers and consumers.
- Any DTSC agreements or settlements with conditions directly affecting the project, document, or Potentially Interested Population.
- The population impacted by any proposed regulations or initiatives.

Projects and documents with local impacts

Whether DTSC has any specialized knowledge or information that assists it in identifying the Potentially Interested Community, including whether:

- There is a community on record as having self-identified as being affected by or interested in the project or document.
- There are existing records characterizing a community as being affected by or interested in the project or document.
- There is an environmental data or analyses (such as ambient air samples, water samples, soil samples, estimates of air dispersion, groundwater plumes, etc.) that indicate an impact from the project.
- There was or will be a survey of local residents and/or businesses performed as part of the project to identify a specific geographic scope of interest in the project or document.
- There are any comments or responses from members of any relevant mailing lists regarding the project indicating an interest in the project or document.
- There is any other information obtained through the public participation processes outlined in DTSC's Public Participation Manual.

Whether the Potentially Interested Community should be adjusted or informed by whether:

- There are any DTSC agreements or settlements with conditions directly affecting the project, document, or Potentially Interested Community.
- DTSC performed any special projects, studies, activities, initiatives, or special programs affecting the project, document, or Potentially Interested Community.
- There are any non-DTSC, peer-reviewed documents or studies that provide information to assist in identifying the Potentially Interested Community.
- There are any media releases related to the project or document that provide information to assist in identifying the Potentially Interested Community.
- There are any known or identifiable community leaders, such as school principals, hospital administrators, Tribal Elders, religious leaders, and any other self-identified or identifiable leaders who can be contacted to provide information regarding the Potentially Interested Community.
- There are any sensitive land uses such as residences, hospitals, schools, day care centers, child care facilities, elderly housing, veterans housing, community centers, parks, playgrounds, recreation areas, or convalescent facilities in or near the project.
- There are any Tribal Lands in or near the project and whether any Tribal consultation or outreach was conducted by DTSC.

This draft has not been approved by DTSC and is for discussion purposes only.

After compiling and evaluating the information gathered through the evaluation process, DTSC will identify the Potentially Interested Community

If the Potentially Interested Community includes a geographic area that covers at least a ¼ mile perimeter around the entire outside boundary of the facility or site in all directions, then the Potentially Interested Community will be identified as the larger geographic area identified through DTSC's evaluation process.

If the Potentially Interested Community does **not** include a geographic area that covers at least a ¼ mile perimeter around the entire outside boundary of the facility/site in all directions, then the Potentially Interested Community will consist of a default geographic area of interest of a ¼ mile perimeter around the entire outside boundary of the facility or site in all directions.

3. IDENTIFYING LEP POPULATIONS AND LANGUAGE NEEDS WITHIN THE POTENTIALLY INTERESTED COMMUNITY

DTSC will determine whether LEP populations exist within the Potentially Interested Community:

Projects or Documents with Statewide Impacts

For projects or documents with statewide impacts, DTSC will consult with its Public Participation Unit and Office of Civil Rights to determine if LEP populations are present in the Potentially Interested Population. DTSC will also evaluate resources and information such as, but not limited to, the following to identify LEP populations in the Potentially Interested Population:

- DTSC's Biennial Language Survey
- SRA Report
- Initiative Reports
- State Demographic Information
- US Census Report
- Any other resources and tools that assist in identifying LEP populations within the Potentially Interested Community

Projects or Documents with Local Impacts

For projects or documents with local impacts, DTSC will consult with its Public Participation Unit and the Office of Civil Rights to determine if LEP populations are present in the Potentially Interested Community. DTSC will also evaluate resources and information such as, but not limited to, the following to identify LEP populations in the Potentially Interested Community:

- American Community Survey (ACS)
- Cal EnviroScreen
- Local public assistance agencies
- Community agencies and organizations, local school systems, religious organizations, and legal assistance organizations
- Where minor children are likely to be impacted by the project or document, the primary language of the minor children's parents
- Results from surveys, assessments, and any other tools outlined in DTSC's Public Participation Manual

This draft has not been approved by DTSC and is for discussion purposes only.

Based on these considerations, DTSC will determine whether a Threshold LEP Population exists in the Potentially Interested Community.

Threshold LEP Populations

If at least 5% of or 1,000 individuals within the Potentially Interested Community, whichever is less, are members of an LEP population for a non-English language group, then a threshold LEP population is present in the Potentially Interested Community. DTSC will translate vital documents and information into each primary language spoken by an LEP population that meets this threshold criteria.*

* If the 5% threshold is reached by less than 50 LEP individuals in a particular LEP population, then written translation of vital documents and information is not required. DTSC will, however, provide notice to these individuals of their right to receive, upon request, oral interpretation of all vital documents and information free of charge.

Non-Threshold LEP Populations

If less than 5% of or 1,000 individuals within the Potentially Interested Community are members of an LEP population for a non-English language group, then DTSC retains its discretion to translate or interpret vital documents and information on a project- or document-specific basis. DTSC will consult with its Public Participation Unit, Office of Civil Rights, and Office of Legal Counsel to determine whether vital documents and information are translated or interpreted.

STOP

4. IDENTIFYING VITAL DOCUMENTS AND INFORMATION

If threshold LEP populations exist within the Potentially Interested Community, DTSC will translate or interpret vital documents and information as follows:

Presumptively Vital Documents and Information

Each DTSC unit, office, or program will develop a list of presumptively vital documents and information that will be translated or interpreted whenever a threshold LEP population exists in a Potentially Interested Community.

STOP

Potentially Vital Documents and Information

For documents and information that are not considered presumptively vital, DTSC will evaluate translation or interpretation of vital documents and information on a project, or document-specific basis, considering the following factors:

- The number or proportion of LEP persons within the Potentially Interested Community.
- The frequency of DTSC's contact with the LEP population in the Potentially Interested Community.
- The nature and importance of the information, document, or activity to the Potentially Interested Community.
- A cost balancing assessment of DTSC department-wide resources and the associated costs.

The number or proportion of LEP persons within the Potentially Interested Community

DTSC may consider the following to assist in determining the quantity of LEP individuals within a Potentially Interested community:

- The presence of a threshold LEP population.
- The linguistic demographic makeup of the Potentially Interested Community as indicated through the resources used to identify potential LEP populations.

The frequency of DTSC's contact with the LEP population in the Potentially Interested Community

Factors considered in determining this frequency may include (but is not limited to):

- The level of public interest in the project by LEP individuals.
- LEP contact on previous projects within the Potentially Interested Community.
- Frequency of LEP services utilized or requested.
- Biennial survey results.
- Current instances of contact on the project.

The nature and importance of the information, document, or activity to the Potentially Interested Community

If the document informs of LEP individuals' fundamental rights, privileges, or duties and available services from DTSC, the portion of a document addressing these fundamental rights and services will be considered a vital document and must be translated or interpreted.

The impacts and potential consequences for an LEP individual not having access to the document or information will be assessed to determine a documents level of importance.

A cost balancing assessment of DTSC department-wide resources and the associated costs

All cost balancing assessments are performed comparing DTSC's department wide resources, to the costs for translation for the particular document or information being assessed.

If cost balancing is any part of a basis for not translating a document, the Office of Legal Counsel and Office of Civil Rights must be consulted prior to any final decision.

This draft has not been approved by DTSC and is for discussion purposes only.

5. TRANSLATION AND INTERPRETATION OF VITAL DOCUMENTS AND INFORMATION

If, based on the above factors, DTSC will translate or interpret all or part of the vital documents and information for LEP populations within the Potentially Interested Community. Consultation with the Office of Civil Rights or Office of Legal Counsel is required before only key portions of a document can be translated as vital.

DRAFT

This draft document has not been approved by DTSC and is for discussion purposes only.

Appendix G: Implementation Checklists

This appendix contains DTSC's program-specific Civil Rights and Language Access metrics checklists.

DTSC Permitting

Civil Rights and Language Access Project Checklist

- Perform Community Assessment
 - Identify whether community has a significant LEP population for purposes of compliance with Language Access requirements
 - Identify whether translation should be offered, even if a significant LEP population is not present
 - Identify languages for translation

 - Post the language access status determination (LEP or non-LEP) on public EnviroStor Project Information page

 - Prepare Project-Specific Plan elements for Civil Rights access
 - Identify vital documents
 - Identify forums requiring translation

 - Translation of Notice of receipt of permit application

 - Translation of Notice of draft permit decision and public comment period

 - Translation of Community Update(s)

 - Translation of Response to public comments – portions responding to comments submitted in the LEP language

 - Translation of Notice of final permit decision

 - Translator services during public meetings

 - Other project-specific Civil Rights items – added as needed
-

Note: This checklist will be embedded in DTSC EnviroStor project management tool, to track on a project-specific basis as well as program-wide metric tracking.

DTSC Compliance Inspections

Civil Rights and Language Access Project Checklist

- Consult Community Assessment
 - Identify whether community has a significant LEP population
 - Identify whether oral translation should be offered, if a significant LEP population is not present
 - Identify languages for translation

Community Assessment not available/applicable

- Identify LEP individuals who may be present at the inspection site
-

- Identify vital documents including, at a minimum:
 - [insert final list of presumptively final documents here]
-

- Identify need for interpretation
 - Owner, operator, workers at the site
 - Residents, complainant (if applicable)
-

- Translation of How to File a Complaint
-

- Translation of Complaint Response Report
-

- Translation of Summary of Observations
-

- Translation of Summary of Violations
-

- Translation of Notice of Violations
-

- Translation of Inspection Report
-

- Translation of Final Administrative Orders
-

- Translation of Unilateral Settlement Agreements
-

- Translation of Administrative Settlement Agreements
-

- Translation of Documents Related to SEPs
-

- Interpreter services during public meetings
-

- Other project-specific Civil Rights items – added as needed
-

Note: This checklist will be embedded in DTSC EnviroStor project management tool, to track on a project-specific basis as well as program-wide metric tracking.

DTSC Corrective Action

Civil Rights and Language Access Project Checklist

- Baseline Community Assessment
 - Identify whether community has a significant LEP population
 - Identify whether oral translation should be offered, if a significant LEP population is not present
 - Identify languages for translation

- Post language-access status determination (LEP or non-LEP) on public EnviroStor Project Information page

- Prepare Project-Specific Plan elements for Civil Rights access
 - Identify vital documents
 - Identify forums requiring translation

- Translation of Community Update(s)

- Translation of Fact Sheets

- Translation of Notice of Preparation of CEQA Documents

- Translation of Notice of Proposed Remedy and public comment period

- Translation of Notice to contiguous property owners

- Translation of Response to public comments – portions responding to comments submitted in the LEP language

- Translation of Notice of final Statement of Basis

- Translation of Permit related vital documents as applicable (see Permitting Section beginning on page # of this CRIP)

- Translator services during public meetings and meeting transcript if required

- Other project-specific Civil Rights items – added as needed

Note: This checklist will be embedded in DTSC EnviroStor project management tool, to track on a project-specific basis as well as program-wide metric tracking.

DTSC Military Sites

Civil Rights and Language Access Project Checklist

- Baseline Community Assessment
 - Identify whether community has a significant LEP population
 - Identify whether oral translation should be offered, if a significant LEP population is not present
 - Identify languages for translation

- Post language-access status determination (LEP or non-LEP) on public EnviroStor Project Information page

- Prepare Project-Specific Plan elements for Civil Rights access
 - Identify vital documents
 - Identify forums requiring translation

- Translation of Public Participation Plan (when prepared)

- Translation of Community Update(s)

- Translation of Notice of Preparation of NEPA Document

- Translation of Notice of Proposed Plan and public comment period

- Translation of Response to public comments – portions responding to comments submitted in the LEP language

- Translation of Notice of final Record of Decision

- Translator services during public meetings and meeting transcript if required

- Other project-specific Civil Rights items – added as needed

DTSC Site Mitigation

Civil Rights and Language Access Project Checklist

- Baseline Community Assessment
 - Identify whether community has a significant LEP population
 - Identify whether oral translation should be offered, if a significant LEP population is not present
 - Identify languages for translation

- Post language-access status determination (LEP or non-LEP) on public EnviroStor Project Information page

- Prepare Project-Specific Plan elements for Civil Rights access
 - Identify vital documents
 - Identify forums requiring translation

- Translation of Public Participation Plan (when prepared)

- Translation of Community Update(s)

- Translation of Notice of draft Remedy Selection. CEQA document and public comment period

- Translation of Response to public comments – portions responding to comments submitted in the LEP language

- Translation of Notice of Approval of Final Remedial Action Plan, if appropriate.

- Translator services during public meetings and meeting transcript if required

- Other project-specific Civil Rights items – added as needed

Note: This checklist will be embedded in DTSC EnviroStor project management tool, to track on a project-specific basis as well as program-wide metric tracking.

This draft document has not been approved by DTSC and is for discussion purposes only.

DTSC Rule Development

Civil Rights and Language Access Project Checklist

- Identify LEP populations significantly impacted by the rulemaking subject.
 - Identify impacted LEP population
 - Identify whether oral translation should be offered if a significant LEP population is not present
 - Identify languages for translation

- Post language-access status determination (LEP or non-LEP) on DTSC website

- Identify vital documents including, at a minimum:
 - Notice of 5-day Emergency Comment period
 - Notice of 45-day Public Comment period
 - Notice of 15-day Public Comment period on changes
 - Notice of Preparation of CEQA document

- Translation of Public Notices

- Translation of Notice of Proposed Action, as applicable

- Translation of other documents, portions or summaries of documents, as applicable

- Translator services during public meetings and meeting transcript if required

- Other project-specific Civil Rights items – added as needed

This draft document has not been approved by DTSC and is for discussion purposes only.

DTSC Safer Consumer Products Program
Civil Rights and Language Access Project Checklist

- Identify LEP populations significantly impacted by product or product category of interest.
 - Identify impacted LEP population
 - Identify whether oral translation should be offered if a significant LEP population is not present
 - Identify languages for translation

- Post language-access status determination (LEP or non-LEP) on DTSC website or CalSAFER as appropriate.

- Translation of Priority Products Work Plan into the LEP language

- Translation of notice of proposed action into the LEP language

- Translation of Regulatory Response communications into the LEP language

- Translator services during public meetings and meeting transcript if required

- Other project-specific Civil Rights items – added as needed

Appendix H: Public Participation Activities and Coordination

Activity	Public Participation	Public Participation or Program Support	Program Project Manager
Community Profile	<ul style="list-style-type: none"> Review Community Profile Make Recommendations for Further Assessment 	<ul style="list-style-type: none"> Prepare Community Profile for State-Led Sites 	<ul style="list-style-type: none"> Request Community Profile from Project Proponents and Forward to Public Participation
Community Survey	<ul style="list-style-type: none"> Draft Community Survey Cover Letter Develop Survey Questions Determine Scope of Distribution Evaluate and Summarize Results of the Survey 	<ul style="list-style-type: none"> Print and Mail Survey 	<ul style="list-style-type: none"> Review and Approve Survey Cover Letter Review Survey Comments and Make Recommendations
Community Interviews	<ul style="list-style-type: none"> Assess Need Identify Interview Scope Identify Language(s) Spoken Prepare/Approve Questions Conduct Interviews Summarize Responses Review Assessment Summary 	<ul style="list-style-type: none"> Schedule Interviews 	<ul style="list-style-type: none"> Suggest Interview Participants Review and Make Recommendations on Questions Community on Summary Participate in Interviews, if Necessary
Public Participation Plan	<ul style="list-style-type: none"> Write for State-Led Sites or Permits Review and Finalize Public Participation Plan 	<ul style="list-style-type: none"> Prepare Tables for State-Led Sites or Permits 	<ul style="list-style-type: none"> Review and Comment
Mailing List	<ul style="list-style-type: none"> Identify Scope Identify Known Contacts Review and Approve Mailing List 	<ul style="list-style-type: none"> Gather Data for Mailing List Enter Addresses into Database Update as Needed 	<ul style="list-style-type: none"> Identify Known Interested Parties/agencies Identify Contiguous Property Owners and Occupants
Community Updates	<ul style="list-style-type: none"> Identify Need/Objective/ Scope Edit/Revise/Finalize Approve Final Document 	<ul style="list-style-type: none"> Graphic Design and Layout Printing and Mailing 	<ul style="list-style-type: none"> Consult on Need Provide Information Review, Edit and Approve Final Document for Technical Accuracy
Public Notices	<ul style="list-style-type: none"> Review and Approve Advertisements Place Ads as Directed 	<ul style="list-style-type: none"> Obtain Bids for Publication and Broadcasting Prepare Service Authorization 	<ul style="list-style-type: none"> Prepare Public Notice and Radio Ads
Public Hearings/ Meetings	<ul style="list-style-type: none"> Identify Need/Objective/ Time Frame Identify Location(s) Develop Agenda Coordinate Development of Presentations for All Participants Review/Approve Presentations Conduct "Dry Runs" of Presentations Approve Graphic/Handout Text Facilitate Meeting as Necessary 	<ul style="list-style-type: none"> Make Meeting Room Arrangements Arrange for Interpreter(s) if Needed Arrange for Court Reporter if Needed Prepare Meeting Supplies (sign-in sheet, name tags, comment forms) 	<ul style="list-style-type: none"> Coordinate with Public Participation on Meeting Plans Prepare Presentations Participate in "Dry Runs" Coordinate with Public Participation on Graphics Participate in Meeting Develop Graphic/Handout Text
Information Repositories	<ul style="list-style-type: none"> Establish Location(s) Identify Documents to Be Included Monitor Status During Project 	<ul style="list-style-type: none"> Inventory All Documents to Repositories Forward Documents Requested 	<ul style="list-style-type: none"> Identify Documents to go into Repository Provide Copies to Library for Inclusion
Response to Comments	<ul style="list-style-type: none"> Provide Input to Project Manager on Organization and Scope of Response to Comments Review Response to Comments for Clarity and Responsiveness Respond to Comments Elevate Community Comments to DTSC Management for Consideration, if Necessary 		<ul style="list-style-type: none"> Write Draft Responses to Comments Refer Comments to Other Appropriate DTSC Staff for Draft Responses Distribute Draft for Final Draft Finalize and Distribute the Responses to Comments