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Hazardous Waste Management	07/01/2024	1 of 28
TARGET AUDIENCE	APPROVED BY	
All Staff	<i>Maria Soria</i> Maria Soria HWMP/EERD Division Chief	

Statutory Reference(s):

Health and Safety Code (HSC) section 25001, et seq., and HSC section 25185 and their implementing regulations.

This policy and any internal procedures adopted for its implementation are intended solely as guidance. This policy does not constitute a rulemaking by the Department of Toxic Substances Control (DTSC) and may not be relied upon to create a specific right or benefit, substantive or procedural, enforceable at law or in equity, by any person. DTSC may take action at variance with this policy or any internal implementing procedures.

This policy expires five years from the effective date, but may be updated prior to expiration.

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Acronyms

AG	Attorney General
BDO	Board, Department and Office
CalEPA	California Environmental Protection Agency
CC	Complaint Coordinator
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CUPA	Certified Unified Program Agency
DTSC	Department of Toxic Substances Control
EERD	Enforcement and Emergency Response Division
HARP	Hazardous Appraisal Recognition Plan
HSC	Health and Safety Code
OCI	Office of Criminal Investigations
OES	Office of Emergency Services
OLC	Office of Legal Counsel
PRA	Public Records Act
U.S. EPA	United States Environmental Protection Agency

TABLE OF CONTENTS

I. PURPOSE	4
II. BACKGROUND	4
III. STATUTORY AUTHORITY	4
IV. POLICY STATEMENT	4
V. ORGANIZATIONAL STRUCTURE	4
VI. RESPONSIBILITIES	5
VII. ENVIRONMENTAL JUSTICE	6
VIII. RELATIONSHIP TO OTHER DOCUMENTS	7
IX. CONFIDENTIALITY	7
X. INVESTIGATING COMPLAINTS	8

ATTACHMENTS

Attachment A: Complaint Process	100
Attachment B: Complaint Roles and Responsibilities	16
Attachment C: Interviewing Techniques and Documenting a Complaint.....	19
Attachment D: EnviroStor Complaint Form and Reward Form.....	24
Attachment E: Prop 65 Reporting Requirements	28

I. PURPOSE

The Department of Toxic Substances Control (DTSC) regulates the generation, transportation, treatment, storage, and disposal of hazardous waste. DTSC monitors compliance with the Hazardous Waste Control Law, Health and Safety Code (HSC) section 25100 et seq, and its implementing regulations (California Code of Regulations, title 22 (22 CCR), section 66260.1 et seq.) by conducting inspections, determining, and pursuing enforcement actions.

This document sets forth DTSC's policy and procedures for responding to complaints, conducting complaint investigations, completing inspection reports in a timely manner, and monitoring that regulated entities demonstrate compliance with regulatory requirements.

II. BACKGROUND

This policy supersedes DTSC-OP-0003 (dated 06/29/2017).

III. STATUTORY AUTHORITY

HSC section 25185 grants DTSC authority to conduct inspections, conduct sampling activities, inspect, copy documents, and take photographs at sites or establishments where hazardous wastes are stored, handled, processed, treated, and/or disposed. Additional statutory authorities include, without limitation, HSC sections 25159.21 and 25244.18.

IV. POLICY STATEMENT

It is DTSC's policy that inspectors conduct complaint investigations in accordance with this document. All associated procedures are referenced in the Attachments section of this document.

DTSC is committed to maintaining a robust complaint investigation program that is effective, equitable, consistent, and timely. DTSC promotes equitable and fair treatment, accessibility, and protection for all communities and residents, regardless of race, age, culture, income, or geographic location.

V. ORGANIZATIONAL STRUCTURE

The Enforcement and Emergency Response Division (EERD) and the Office of Criminal Investigations (OCI) are two divisions within DTSC's Hazardous Waste Management Program (HWMP). EERD and OCI are both overseen by the deputy director for HWMP, led by their respective division chiefs, and are responsible for conducting inspections and investigations in various offices throughout California.

EERD and OCI work closely with several other DTSC programs as it pertains to intra-Departmental coordination of inspection and enforcement activities. These programs include the: Permitting Division, Office of Legal Counsel, Environmental Chemistry

Lab, Office of Communications, Safer Consumer Products, Office of Environmental Equity, and Geological Services. EERD and OCI support and coordinate multi-media inspections and investigations with other California Environmental Protection Agency (CalEPA) Boards, Departments, and Offices (BDO), and federal and local agencies.

EERD and OCI continually strive to promote and support program evaluation and enhancements to ensure equitable, consistent, effective, and timely inspections and investigations. This includes enhancing public transparency and accessibility.

EERD and OCI are committed to upholding their respective mission statements as follows:

- EERD's mission is to achieve a unified, comprehensive, effective, and equitable enforcement program that partners with communities and the regulated industries to achieve and sustain full compliance with California Hazardous Waste and Hazardous Substances Laws.
- OCI's mission is to prevent and investigate violations of California's Hazardous Waste Control Laws for the safety of the public and protection of the environment.

VI. RESPONSIBILITIES

Enforcement and Emergency Response Division

EERD has a broad range of inspection and enforcement responsibilities including, but not limited to:

- Performing inspections of hazardous waste generators, handlers, transporters, operators of treatment, storage, and disposal facilities , and electronic waste recyclers and handlers.
- Regulating universal wastes, treated wood waste, lead in jewelry, and toxics in packaging.
- Performing complaint investigations.
- Conducting enforcement actions for serious violations found through inspections and complaint investigations.
- Implementing targeted inspection and enforcement initiatives including participation in the Identifying Violations Affecting Neighborhoods Network and attending various task force meetings.
- Conducting emergency response; which includes off-highway incident response, clandestine laboratory clean-up, railroad accident response, disaster planning, and resumption of government planning responsibilities.

- Providing oversight and conducting evaluations of the Certified Unified Program Agencies (CUPAs), providing CUPA support, and providing technical training and technical assistance.
- Implementing the CUPA program for both Imperial and Trinity Counties.

Office of Criminal Investigations

OCI is tasked with specific inspection, investigation, and enforcement responsibilities. OCI is responsible for investigating alleged criminal violations and pursues a wide range of both felony and misdemeanor cases. OCI also assists other BDOs within CalEPA to investigate complex civil and administrative violations. OCI works with other state, federal and local law enforcement agencies, including the California Highway Patrol, Department of Fish and Wildlife, Federal Bureau of Investigation, United States Environmental Protection Agency's Office of Criminal Investigations, and local enforcement agencies in the development of criminal cases.

VII. ENVIRONMENTAL JUSTICE

DTSC recognizes the need for further integration of environmental justice in its program activities and decisions to protect California's most vulnerable and environmentally burdened communities. EERD and OCI prioritize DTSC's commitment to advance environmental justice by conducting objective and equitable inspections, investigations, and enforcement. Additionally, EERD and OCI will implement environmental justice-informed approaches for disproportionately impacted and disadvantaged communities by:

- Integrating environmental justice into regulations, program activities, and policies.
- Engaging community members in a meaningful manner and providing opportunities for public participation.
- Working closely with the public, including vulnerable and environmentally burdened communities, to identify, verify, and resolve hazardous waste complaints.
- Ensuring that communications with the public are conducted in a culturally and linguistically sensitive and effective manner.
- Conducting at least 50 percent of all inspections and investigations in disadvantaged communities.
- Reducing environmental harm and health risks through targeted enforcement actions.

- Developing and incorporating an environmental justice program element in employee-training curriculum.
- Actively supporting and participating in CalEPA environmental justice enforcement initiatives and directives.

VIII. RELATIONSHIP TO OTHER DOCUMENTS

This policy is applied in conjunction with other United States Environmental Protection Agency (U.S. EPA), CalEPA and DTSC documents, including, but not limited to the following:

- CalEPA Environmental Complaint System.
- Referrals to California Compliance School DTSC-OP-0002.
- Conducting Inspections Policy DTSC-OP-0005.
- Enforcement Response Policy DTSC-OP-0006.
- Quarantine Authority DTSC-OP-0008.

IX. CONFIDENTIALITY

Under the Public Records Act (PRA), Government Code section 6250 et seq., records retained by state agencies are public unless exempt from disclosure. Preserving the confidentiality of documents is important; however, not all documents obtained or generated are confidential.

Documents

Documents obtained during an inspection that are not part of the inspection report may be confidential. Documents are not subject to disclosure under the PRA if they pertain to pending litigation and/or compromise the record of an investigation compiled for law enforcement purposes (Government Code section 6254(b) and (f)). However, once litigation is complete or the case is otherwise resolved, these documents may become public records pursuant to Government Code, section 6254.

Draft Documents

Preliminary draft documents are typically confidential under the PRA, pursuant to Government Code section 6254(a). Documents are subject to public disclosure once they are finalized or released to the facility.

Attorney-Client Privilege

Attorney-client communications are not discoverable and are exempt from disclosure under the PRA. Evidence Code, section 954 sets forth the attorney-client privilege.

Attorney Work Product Doctrine

The work product of an attorney is not discoverable and is exempt from disclosure under the PRA. Attorney work product documents remain confidential, even after an enforcement action is completed.

Trade Secrets

"Trade secrets" are confidential pursuant to HSC, section 25173. Within ten business days of receipt of the inspection report, the operator may submit a letter to DTSC identifying trade secret information contained in the inspection report and request that such information be withheld from public disclosure. Failure to make a timely claim of confidentiality may result in waiver of these rights. See HSC section 25173, 22 CCR section 66260.2, and the references contained therein.

X. INVESTIGATING COMPLAINTS

DTSC will investigate all complaints according to this document. See Attachments A-E for specific complaint procedures.

A. Complaint Receipt

Complaints come to DTSC from a variety of means. Individuals may submit a complaint to DTSC via the CalEPA Environmental Complaint System, the DTSC Complaint Hotline, letters, phone calls, e-mails, facsimile documents, and drop-in visits. Complaints not received via the CalEPA Environmental Complaint System will be input into the CalEPA Environmental Complaint System. All complaints received will also be processed and tracked through the DTSC EnviroStor database. All complaints referred to DTSC will be reviewed within 48 hours of receipt.

All referrals to outside agencies are done through the CalEPA Environmental Complaint System. HSC, section 25197.1(b)(5) states, "The department shall screen calls for violations and shall refer information concerning potential violations within three working days to the regional office of the department, the office of the city attorney, the district attorney, or the Attorney General (AG), as appropriate."

B. Complaint Investigation

Complaints received by DTSC may warrant an inspection. If an inspection is deemed necessary, the complaint will be assigned to a DTSC inspector and the inspection process shall begin as soon as reasonably possible. Inspectors may conduct a site inspection to determine the validity of the complaint and if there are any violations of hazardous waste control laws or regulations.

C. Enforcement

Enforcement response actions, including formal and informal enforcement actions, or other administrative enforcement options, as described in the DTSC Enforcement Response Policy (DTSC-OP-0006), may be pursued if violations are found during the complaint investigation process. DTSC evaluates several factors to select and execute the proper enforcement action, including reviewing the class of the violation and the type of violator.

D. Closure

At the conclusion of the complaint investigation, after an inspection is conducted, the inspector shall inform the complainant of the results of the inspection and provide an inspection report.

Attachment A

Complaint Process

I. RECEIVING COMPLAINTS

Complaints are received through the California Environmental Protection Agency (CalEPA) Environmental Complaint System, the Department of Toxic Substances Control's (DTSC) Complaint Hotline (1-800-698-6942), letters, phone calls, e-mails, facsimile documents, and drop-in visitors. All complaints are routed to the DTSC complaint coordinators (CC). CCs are on duty weekdays during regular business hours. DTSC has two CCs, one located in northern California and one in southern California. They are designated to receive, review, and triage complaints from the sources listed above to their respective branch.

Complaint information from the CalEPA Environmental Complaint System is entered automatically into DTSC's EnviroStor database once every 24 hours.

All complaints issued to DTSC will initially be referred to DTSC's Office of Criminal Investigations (OCI) and will be reviewed within 48 hours to determine if they will take the lead investigating the complaint. Complaints not investigated by OCI will be referred to the appropriate DTSC Division or external agency by the CC. Based on the location and nature of the complaint, the CC may refer the complaint to outside agencies such as federal, state, or local agencies. DTSC will triage and refer all complaints within three days.

II. TYPES OF COMPLAINTS

A. Emergency

A complaint is deemed an emergency when it warrants an emergency response (train derailment, terrorist activities, wildfire, and earthquakes, etc.). When a complainant identifies a circumstance that appears to be an emergency, the complainant should be referred or transferred to either 911 or the Office of Emergency Services (OES) at 800-852-7550. In emergency situations, the CC should ask the complainant for their name and phone number. The complainant should be informed that the call is going to be transferred to 911 or OES and to call the DTSC toll free number ((800) 698-6942 or (800)-69-TOXIC) back if the call drops. The CC should then call 911 or OES while the complainant is on the line allowing the complainant to report the emergency situation. The CC, while listening to the complainant's report to 911 or OES, can obtain pertinent information regarding the emergency situation from the complainant. If the call drops the CC will call them back as soon as possible. The CC can use the information gathered during the call to submit the complaint to the CalEPA

Environmental Complaint System. The CC will also use the information gathered to determine if DTSC's Emergency Response Unit should be contacted to respond to the incident.

B. Urgent

A complaint is deemed urgent when an illegal act is occurring at the time the complainant is calling and immediate referral to the appropriate agency or DTSC Division or Office (e.g., OCI) is warranted. The appropriate referral agency may be the local Certified Unified Program Agency (CUPA), local police, Department of Fish and Wildlife (CDFW), California Highway Patrol, or another agency. The CC will have to assess the situation and use professional judgment and knowledge to determine the appropriate referral agency.

C. Standard Complaints

Non-emergency and non-urgent complaints are deemed standard complaints. If a complaint does not involve hazardous waste, it should be referred to the appropriate local, state, or federal agency. Complaints involving minimal amounts of potentially hazardous waste can be referred directly to a CUPA or another local agency, as appropriate.

III. TRIAGE PROCESS

OCI reviews all complaints on the CalEPA Environmental Complaint System and EnviroStor before the CC processes the complaint for referral or assignment. OCI has 24 hours on the CalEPA Environmental Complaint System and 48 hours on the EnviroStor system to determine if they will take the lead in investigating a complaint.

If OCI elects to investigate, they will assign the complaint to an investigator/supervisor within OCI, or in some cases have the CC make the assignment. The complaint is then considered referred.

Once the complaint is received by the CC, they will determine if the complaint warrants further investigation and triage the complaint appropriately. In general, an investigation is appropriate for a complaint that: (1) poses a significant threat to public health or the environment; (2) is an act that reflects continuing noncompliance; or (3) is an act that reflects serious noncompliance involving multiple agency jurisdictions.

If the CC are temporarily unavailable, each office shall have a designated backup that will review and triage complaints. Any triage decision made by a backup staff (other than a senior environmental scientist (specialist or supervisor)) should be reviewed and approved by a supervisor.

Complaints that are to be assigned or referred for further investigation to DTSC staff (all programs) will be assigned or referred via an EnviroStor complaint form. If referred to DTSC programs outside of Enforcement and Emergency Response

Division (EERD), the CC must send the complaint to the appropriate branch chief and supervisor and must make a notation of the program and contacts assigned in the comment section of the complaint form. CC shall inform the assigned contacts that they are expected to contact the complainant and respond to them in writing of any complaint resolution; this includes sending a copy of the resolution to the CC. If a written complaint resolution is not received by the CC within 30 days, they shall follow up with the project manager and supervisor.

When referring a complaint outside of DTSC, the complaint will be sent to the receiving agency through the CalEPA Environmental Complaint System. Any additional documentation that is received regarding the complaint shall be attached to the complaint in the CalEPA Environmental Complaint System and provided to the agency designated to receive the referral as soon as reasonably possible, but no later than one working day after receipt of the additional information.

IV. COMPLAINT INSPECTION PROCESS

If an inspection is deemed appropriate for a complaint, the inspection process shall begin as soon as reasonably possible. Upon initiating the inspection, the assigned inspector investigating the complaint must obtain a site code from Fiscal Systems if one does not already exist. The inspector must conduct the complaint investigation according to the procedures outlined in DTSC's Conducting Inspections Policy (DTSC-0005). The inspection report must include information on the complaint.

Prior to the inspection, the inspector will contact the complainant and inform them that an inspection has begun based on the allegations. The inspector will provide the complainant with the name and phone number of the lead inspector on the inspection and interview the complainant to gather additional information. Additional information may include, but is not limited to, the names of other persons who may have additional information, times and dates of activities, and information about the allegations and persons involved. The inspector may need to schedule a meeting with the complainant to obtain maps, photos, or any other documentation to assist the inspection. After the inspection, the inspector may contact that complainant to discuss the findings.

A. Contact Local Agencies

The inspector shall notify the appropriate CUPA of any inspection DTSC will conduct of hazardous waste generators or onsite treatment facilities. When contacting other agencies, the lead inspector must communicate that DTSC is the lead agency on the inspection, DTSC's confidentiality policy, and expectations for the inspection.

Inspectors should request available information in the CUPA's files regarding the company, person, or location of the complaint and, if ever inspected, when the last generator, tiered permitting, or other inspection occurred. Depending on the allegation(s) in the complaint, the inspector may need to obtain records of any

complaints for the same facility or location and the status of the resulting inspection(s). The local agency (county assessor's office, planning department, recorder's office, agricultural commissioner's office, public works department, or other local governmental agency) or district should have information regarding permit and compliance history, permit applications, including company diagrams and information regarding discharge points, emission sources, and the processes operated.

If applicable, the CUPA will also have a copy of the company's Hazardous Materials Business Plan and the most current tiered permitting application. It may be necessary to make an appointment with the local agency to review files. When reaching out to local agencies, the inspector should determine if there are ongoing inspections or investigations of the company, person, or location. The inspector should check to see if the local agency has received recent complaints involving entities named in the current complaint. When contacting outside agencies regarding a pending complaint inspection, the inspector should not divulge too much information to avoid compromising the investigation in any way.

B. Contact other State or Federal Agencies

Depending on the allegation(s), the inspector will also contact the appropriate Regional Water Quality Control Board, CDFW, Department of Industrial Relations, Division of Occupational Safety and Health, Department of Resources Recycling and Recovery (CalRecycle), other state agencies, U.S. EPA, or other federal agencies, as appropriate.

C. Proposition 65 Notification

Proposition 65 notification shall be done by the DTSC staff inspector working on the violation or complaint, as appropriate. If at any time during the receipt or processing of a complaint, a designated governmental employee (pursuant to Government Code section 82019) believes that they have obtained sufficient information of a potential violation that requires notification (Health and Safety Code (HSC) section 25180.7), the employee should make the appropriate Proposition 65 Notification (Attachment E).

D. Site Visit

All complaint site visits are unannounced. The facility or person(s) under investigation will not be notified prior to the visit. The inspector shall obtain consent upon arrival at the site, unless in possession of a warrant. The inspector needs to gain access to the site, documents, and employees without divulging information regarding the allegations set forth in the complaint or the identity of the complainant.

The inspector shall explain to the facility representative that consent to conduct an inspection includes inspecting hazardous waste handling areas, taking photographs, conducting sampling activities, interviewing staff, and reviewing and copying documents. The inspector shall request, obtain, and document consent to conduct the inspection from the operator before beginning the site inspection.

If consent is denied or withdrawn at any time, the inspector shall leave the facility, and notify their supervisor. The inspector should leave the site and not make any remarks about getting a warrant or attempt to intimidate the facility representative. If consent to conduct an inspection is denied or withdrawn, the inspector shall specifically note it in the inspection report. The notation shall include the date and time at which consent was denied or withdrawn, the name and title or position of the person denying or withdrawing consent to conduct the inspection, and any reason(s) given for denying or withdrawing consent.

If consent is denied or withdrawn, the inspector shall discuss obtaining an inspection or search warrant with their supervisor and the Office of Legal Counsel (OLC).

E. Scope of Site Visit Inspection

The focus of the site visit is to investigate the allegations of the complaint and other areas of concern found during the preparation/background phase of the inspection. Nevertheless, the inspector may observe other violations and should be alert for unexpected violations that may be found during a site visit or an interview.

The scope of the inspection may be expanded beyond the allegations set forth in the complaint after discussing the following with a supervisor:

- Significant violations other than those alleged in the complaint are observed.
- Treatment, storage, disposal, or transportation issues are discovered.
- Other significant issues noted during the preparation/background phase, site visit, or interviews.

If necessary, the inspector should contact their supervisor to discuss issues or concerns. The inspector may obtain copies of documents. Original documents cannot be seized unless an inspection is conducted under a search warrant.

F. Inspection Report

The inspection report describes the details of the inspection and specifies all violations noted. The inspector shall document in the report that consent was requested, the name and title or position of the individual who granted consent, and the date and time consent was granted.

A copy of the original complaint should not be included as an attachment to protect the identity of the complainant. The original complaint should be submitted with

the draft inspection report to provide the reviewer with the context they need for the review process. A copy of the redacted complaint can be included as an attachment with the final report. Special consideration should be given when attaching the original complaint to the inspection report to avoid revealing the complainant's identity. The inspector shall include the complaint number and the allegations in the report.

HSC section 25185(c)(2)(A) states: "the department or the local officer or agency shall provide a copy of the inspection report to the operator within five days from the date of the preparation of the inspection report, and, in any event, not later than 65 days from the date of the inspection." However, it is DTSC policy to provide the inspection report to the facility within 30 days of the first day of inspection. Prior written approval from the inspector's supervisor is required if this time is exceeded. If the report cannot be provided to the facility within 65 days, the inspector should inform the facility and give a date by which the report will be provided, pursuant to HSC section 25185(c)(2)(B).

G. Enforcement

Upon completing the inspection, an enforcement action may be initiated based on the findings of the inspection and in conjunction with DTSC's Enforcement Response Policy (DTSC-OP-0006), as appropriate.

V. FOLLOW UP ON REWARD APPLICATIONS

When a case with a filed reward application is adjudicated or settled and a civil penalty or criminal fine has been collected and deposited in DTSC's account(s), the complainant may be eligible for a reward as per HSC section 25191.7, California Code of Regulations, title 22, sections 66272.20 and 66272.30. Reward applications for cases that have been prosecuted by a county shall be forwarded to and handled by the prosecuting office of the county. Reward applications for cases that have been prosecuted by DTSC or the AG representing DTSC shall be handled by DTSC.

For cases handled by EERD that resulted in the collection of a civil penalty or criminal fine and a reward application was received, the inspector shall alert their supervisor regarding the application. Staff shall consult with OLC and the AG to determine whether the applicant supplied information that materially contributed to a settlement or a judgment for violations of the HSC, as provided in HSC section 25191.7.

After a determination has been made, the inspector shall prepare a letter notifying the complainant of DTSC's determination. When the determination is made to grant a reward, a memorandum shall be prepared for the supervisor's signature directing DTSC's accounting to prepare and release a check for the amount of the reward to the applicant. That letter shall be reviewed by the OLC attorney involved in the case and forwarded accounting to issue the reward.

Attachment B

Complaint Roles and Responsibilities

Complaint Coordinator

- Receives complaints from the California Environmental Protection Agency (CalEPA) Environmental Complaint System, Complaint Hotline calls, non-Hotline telephone calls, letters, e-mails, facsimile information, and walk-in reports.
- Collects complaint information from complainant. Determines initial response based on urgency of complaint (emergency, urgent, standard complaint, non-complaint).
- Logs incoming complaints in the CalEPA Environmental Complaint System.
- Notifies the other complaint coordinators (CC) if unable to perform CC duties on the days assigned, and secures a replacement, as needed.
- Notifies branch chiefs of complaint assignments.
- Assigns complaints to Enforcement and Emergency Response Division (EERD), the Office of Criminal Investigations, (OCI), and other Department of Toxic Substance Control (DTSC) programs.
- Triage all complaints received that are not pursued by OCI.
- Coordinates complaint inspections with supervisors. Refers complaints that EERD does not investigate to the Certified Unified Program Agency (CUPA), or to another Federal, State, or local agency, and follows up on a complaint response, as appropriate.
- Prepares weekly and monthly complaint reports for CUPA referrals.
- Oversees the mail out of reward forms. Forwards completed reward forms to supervisors.
- Develops the CC monthly schedule.
- Maintains the complaint log and associated documentation.
- Reviews and maintains the online CalEPA Environmental Complaint System.
- Attends meetings with CalEPA Boards, Departments, and Offices to discuss complaint coordination and other issues.

OCI Supervisor

- Reviews complaints within 24-48 hours to determine if OCI will investigate the complaint.
- Responds to inquiries from EERD inspectors regarding available information in the OCI EnviroStor to support complaint investigation.

EERD Supervisor

- Ensures that inspectors receive required training and equipment prior to conducting inspections and are current on Hazardous Waste Operations and Emergency Response (HAZWOPER), medical monitoring, respirator fit testing, and CPR/AED/First Aid training, as appropriate.
- Confers with CC on the correct complaint response.
- Assigns staff to conduct complaint inspections.
- Reviews and approves Hazardous Appraisal Recognition Plan (HARP) form prior to each complaint inspection and reviews a Post-HARP Daily Site Visit Document (Post-HARP) after each inspection.
- Follows up on complaint inspections by assuring timely inspection, data entry, and appropriate enforcement response(s). Coordinates with inspectors as appropriate.
- Reviews inspection reports, as appropriate.
- Makes decisions on enforcement recommendations.
- Directs DTSC Accounting to pay a reward, as appropriate.

EERD Environmental Program Manager

- The environmental program manager (branch chief) assigns complaints to supervisors and staff for investigation.
- Follows up on complaint inspections and enforcement by reviewing data entry reports and reports from supervisors.
- Ensures data quality for the complaints responded to by the branch.
- Provides a list of all complaints referred to the CUPAs, upon request.

EERD Inspector

- Completes and submits a HARP Pre-Site Visit Form to supervisor and DTSC's industrial hygiene staff for approval prior to each inspection. Completes and submits Post-HARP to the supervisor and industrial hygiene staff after an inspection.

- Prepares for complaint inspections.
- Reviews and investigates complaint allegations.
- Completes the Summary of Observations or Summary of Violations, as appropriate.
- Completes inspection report, inspection report transmittal letters, and any correspondence, as appropriate.
- Recommends enforcement options for violations.
- Completes all data entry into EnviroStor.
- Prepares confidential and public complaint files for completed inspections.
- Follows up on reward applications, as appropriate.
- Conducts peer review of other inspectors' inspection reports.

EERD Administrative Support Staff

- Administrative support staff (Data Managers) mails out reward application to complainant.
- Reviews returned reward applications and forwards applications with additional information to responsible inspector for proper processing.
- Makes copies of EnviroStor complaint form and information submitted and distributes those copies to supervisors, the CC, and the lead inspector who investigates the complaint.
- Enters information from various sources into EnviroStor, generates reports, and performs quality assurance and quality control review of the data (Data Manager).
- Maintains archive of original complaints.
- Ensures documents are American with Disabilities Act compliant and uploads to EnviroStor.

Office of Legal Counsel

- Consults with EERD inspector if an inspection warrant is required.
- Assists and provides technical support in responding to Public Records Act (PRA) requests.
- Reviews memo to accounting directing payment of reward.

Attachment C

Interviewing Techniques and Documenting a Complaint

I. TAKING COMPLAINTS OVER THE PHONE

A. General Information

Clearly identify to the caller that they have reached the Department of Toxic Substances Control (DTSC) and the Complaint Hotline. The Complaint Coordinator (CC) should give their first name. Giving one's first name makes the complainant feel comfortable and sets the tone for a positive conversation.

B. Complaint

Ask the complainant if they want to file a complaint. This is another assurance that the complainant has called the right number.

II. OBTAINING COMPLAINT INFORMATION

A. Contact Information

Obtain the complainant's name, address, and telephone number. Some complainants may choose to remain anonymous. Explain to the complainant the importance of disclosing their identity. Provide information regarding the Receipt of Notification and Application for Reward form (see Attachment D).

B. Hesitation

If the complainant hesitates to give personal information, explain to him or her that there might be a need for a follow up call to gather more information. If appropriate, arrange a time for the complainant to call the inspector.

C. Alias

Tell the complainant that an alias can be used if the complainant does not want to give their real name. He/she can leave a phone number, not necessarily their own, where messages can be left for the complainant, so that the inspector can get hold of the complainant.

III. CONFIDENTIALITY

A. Confidentiality Not Guaranteed

Inform the complainant that DTSC treats all complaints as confidential information; however, we cannot assure that confidentiality of the complainant's identity can be maintained. Complaints can lead to enforcement or even criminal cases. The testimony of the complainant might be needed to help put a case together. The identity of the complainant may be identified during this process.

B. During Investigation

Inform the complainant that during the inspection their identity will not be revealed to the party against whom he/she submitted the complaint.

IV. WHO AND WHERE?

A. Check Initial Information

Ask the complainant who the complaint is against. Make sure that this information is accurate. Ask the complainant to spell the names, if possible.

B. Gathering Data

Ask the complainant the exact location of the alleged violation. If possible, get an exact address. This could be the address of the company or individual against whom the complaint is being made. Pinpoint locations using landmarks (e.g., an empty lot next to MacArthur Park, behind the ABC gas station, a block away from the County General Hospital), cross streets (e.g., on Main Street between 2nd and 3rd, in the middle of the block between Spring and Hope) and precise descriptions of location (an abandoned building on the 1200 block of West Avenue, an abandoned tanker truck on Maple Drive). Include the city and county. Explain to the complainant that it would be impossible for DTSC to follow up on a complaint unless the location of the activity is known. Obtain a telephone number for the company or individual against whom the complaint is being filed, whenever possible.

V. COMPLAINT DETAILS

Ask for as much detail as possible. Note everything the complainant says. What might seem like an insignificant bit of information MAY be helpful when the case is being developed.

A. Suggested Questions

What activity was observed? What type of containers were observed? Are there any markings on the containers? Can the complainant give an exact number or estimate of the number of containers involved?

Can the complainant tell if any chemicals/substances are involved? Does the complainant know what substances are involved? How does the complainant know what the substances are?

Are there visible signs of a release that the complainant observed (e.g., a spill on the ground, gassing, vapor clouds, unusual smell)? How did the complainant come by this information? Does the complainant know what was spilled, when it was spilled, how it was spilled, how much was spilled, and who spilled it? If the spill is on the roadway, is it causing unsafe driving conditions?

Did the complainant observe any vehicle involved in the activity? Can the complainant give a description of the vehicle—type (truck, pick up, a car, a sport utility vehicle), color, make of the vehicle, license plate number, possible age of the vehicle?

Did the complainant notice the driver of the vehicle? Obtain a description of the driver and any other individuals in the vehicle.

Does the complainant know whether the same activity is going on at other locations?

B. How Do They know?

- How did the complainant know about the activity?
- When was the activity observed for the first time? Is this a one-time occurrence or is it ongoing? Who was the first person to observe the activity?
- Did the complainant observe an individual or individuals engaging in the activity? Does the complainant know the individual(s) involved in the activity? How does the complainant know the individual(s) involved?
- Does the complainant know if any other individual or individuals are involved in the activity? Will the complainant provide the names of the other individual(s) involved? Does he/she think the other individual(s) would be willing to talk to DTSC?
- If this is an ongoing activity, what time and day does it usually occur? Does this activity occur regularly or sporadically?

VI. POTENTIAL EMERGENCY TELEPHONE CALL

If at any point during the conversation, the CC determines that the complainant is reporting an emergency situation, tell the complainant that their call is going to be transferred to the Office of Emergency Services (OES). The CC calls OES while the complainant is on the line allowing the complainant to report the emergency situation. The CC, while listening to the complainant's report to OES, can obtain pertinent information regarding the emergency situation from the complainant. This information could be useful for potential follow-up on the complaint.

If the CC concludes that the emergency situation should be reported to the appropriate local agency for response, the same procedure described above should be taken with the local emergency response agency.

If at any point during the conversation, the CC determines that the complainant is reporting a situation that another agency should be made aware of immediately, the CC should call that agency while the complainant is on the line. The same procedure prescribed for an "emergency call" should be followed. The CC shall obtain pertinent information regarding the complaint for possible follow-up later.

VII. OTHER COMPLAINT CALLS

If the CC determines that the complainant is reporting a situation that is clearly not a violation of the hazardous waste laws or a threat to public health or the environment, refer him or her to the correct party (e.g., other program-related questions could be referred to other appropriate entities within DTSC, and non-complaint environmental concerns can be referred to other State or local agencies).

The CC should give the complainant the correct telephone number of the party the complainant needs to call and then should forward the call to that party, remaining on the line the entire time. The CC should explain to the complainant why the call is being transferred and to whom the call is being transferred or referred.

VIII. WRAPPING UP THE CONVERSATION

Ensure that all information has been noted. Take the time to go over all of the important information with the complainant to assure that nothing has been missed. Remember, this might be the only contact with the complainant.

Ask the complainant if they have referred this complaint to another agency. Make a note of the agency or agencies with which the complainant has talked. This information could help in the triage process.

Thank the complainant. Ask their permission for a call back should there be more questions. Ask the complainant when it would be most convenient for the CC to call back.

IX. TIPS FOR TAKING COMPLAINTS OVER THE PHONE

- Be tactful and courteous at all times.
- Ask open-ended questions to gather more information.
- Try to sound relaxed. Do not make the complainant feel that you are in a hurry. This might discourage the complainant from giving you more information.
- Do not be afraid to ask the complainant to repeat what they said.
- Communicate to the complainant the need to gather as much information as possible. Tell the complainant that they can help address concerns in the complaint if they provide all the information that they have.
- Inform the complainant that the information is being written down. If possible, read back to the complainant the information taken down. This assures that CC has taken down the information correctly. Hearing what they said might help the complainant recall more details.
- Keep in mind: who, what, where, when, why, and how when interviewing the complainant and make sure that accurate information is gathered to answer each of those questions.
- Use good listening techniques. Keep quiet while the complainant is talking. Do not interrupt.
- Avoid talking down to a complainant. If the complainant does not understand the laws, try to explain them to him or her. Sometimes, a complainant might think that what they observed was illegal. If the CC knows otherwise, try to explain this to the complainant without making the complainant feel embarrassed.
- Be sensitive to the complainant's anger, frustration or even fear.
- When in doubt as to whether the complainant is giving a valid complaint or not, take down the information they are providing. Ensure the complainant that their call is important.
- Avoid arguing with the complainant. The complainant has the information. Nothing is to be gained by trying to prove the complainant wrong.
- Threatening calls should be documented and never be taken lightly. Report all threatening calls to the proper authority.
- Be sincere and professional.

Attachment D

EnviroStor Complaint and Reward Forms

COMPLAINT FORM			
Is this an emergency? <input type="checkbox"/>		Is this a spill? <input type="checkbox"/>	
<input type="checkbox"/> Variance Inspection			
COMPLAINT INTAKE			
RECEIVED BY: <input type="text"/>	DATE RECEIVED: <input type="text"/>	TIME RECEIVED: <input type="text"/>	
<input type="radio"/> CALEPA Online Complaint System		<input type="radio"/> Email to DTSC	
<input type="radio"/> Referral from Within DTSC		<input type="radio"/> Referral from Other Agency	
<input type="radio"/> Other: Mail, Walk-in, etc			
Notification Made Regarding Prop 65 <input type="radio"/> Yes <input type="radio"/> No		LOCAL AGENCY NOTIFIED <input type="text"/>	WHO NOTIFIED AT LOCAL AGENCY <input type="text"/>
COMPLAINANT INFORMATION			
CONTACT NAME <input type="text"/>		AGENCY (if Applicable) <input type="text"/>	
CONTACT ADDRESS <input type="text"/>		CITIZEN COMPLAINT <input type="radio"/> YES <input type="radio"/> NO	
CITY <input type="text"/>	STATE <input type="text"/>	ZIP <input type="text"/>	COUNTY <input type="text"/>
PHONE <input type="text"/>	EMAIL <input type="text"/>		
COMPLAINT REWARD APPLICATION:			
DATE REWARD APPLICATION SENT <input type="text"/>		DATE REWARD APPLICATION RECEIVED BACK <input type="text"/>	
COMPLAINT DESCRIPTION			
COMPLAINT RELATED TO: (Click category name for more information.)			
<input type="checkbox"/> Air (ARB)	<input type="checkbox"/> Garbage (CWMB)	<input type="checkbox"/> Pesticides (DPR)	<input type="checkbox"/> Toxics (DTSC)
<input type="checkbox"/> Water (SWRCB)	<input type="checkbox"/> Prop 65 (OEHHA)		
Date of Occurrence: <input type="text"/>	Approx. Time: <input type="text"/>	Ongoing: <input type="text"/>	
COMPLAINT FOCUS:			
<input type="checkbox"/> Consumer Products - Lead Jewelry	<input type="checkbox"/> Consumer Products - Other	<input type="checkbox"/> Consumer Products - Packaging	<input type="checkbox"/> Disposal
<input type="checkbox"/> E-Waste	<input type="checkbox"/> Environmental Justice	<input type="checkbox"/> Landfill	<input type="checkbox"/> Other
<input type="checkbox"/> Storage	<input type="checkbox"/> Transportation	<input type="checkbox"/> Treatment	<input type="checkbox"/> Tribal Affairs
COMPLAINT DESCRIPTION (Please include quantity and units if known)			
<input type="text"/>			
<input type="button" value="Spell Check"/>			
ALLEGED RESPONSIBLE PARTY (ARP)			
<input checked="" type="radio"/> Search for an Existing Facility:		<input checked="" type="checkbox"/> SEARCH HWTS FACILITIES	
<input type="radio"/> Enter a New Responsible Party			
COMPANY NAME <input type="text"/>	CONTACT NAME <input type="text"/>		
ADDRESS <input type="text"/>	EPA ID <input type="text"/>		
CITY <input type="text"/>	STATE <input type="text"/>	ZIP <input type="text"/>	COUNTY <input type="text"/>
LOCATION WHERE ALLEGED VIOLATION OCCURRED			
FACILITY TYPE(S) WHERE ALLEGED COMPLAINT OCCURRED, IF KNOWN			
<input type="checkbox"/> ELECTRONIC WASTE	<input type="checkbox"/> TREATMENT, STORAGE, DISPOSAL FACILITY (TSD)	<input type="checkbox"/> HAZARDOUS WASTE TRANSPORTER	<input type="checkbox"/> RESIDENTIAL
<input type="checkbox"/> GENERATOR FACILITY / TREATER	<input type="checkbox"/> FEDERAL FACILITY	<input type="checkbox"/> OTHER LOCATION	<input type="checkbox"/> REFINERY
<input type="checkbox"/> CHECK HERE IF THIS ADDRESS IS THE SAME AS THE ALLEGED RESPONSIBLE PARTY ADDRESS ABOVE			
<input type="checkbox"/> STATEWIDE CASES - VARIOUS LOCATIONS - PLEASE UPLOAD LIST OF BUSINESS NAMES AND LOCATIONS			
PHYSICAL ADDRESS <input type="text"/>			
CITY <input type="text"/>	STATE <input type="text"/>	ZIP <input type="text"/>	COUNTY <input type="text"/>
ADDITIONAL LOCATION DESCRIPTION (IF NECESSARY)			
<input type="text"/>			
<input type="button" value="Spell Check"/>			
FILES ASSOCIATED WITH THIS COMPLAINT			
UPLOAD DOCUMENTS BELOW:			
FILE DESCRIPTION <input type="text"/>	FILE <input type="text"/>	<input type="button" value="Browse"/>	
<input type="button" value="Submit Complaint"/>			
COMPLAINT COORDINATOR - MAKE ANY NECESSARY CHANGES AND CLICK "SAVE CHANGES" WHEN COMPLETE			
RESPONSE TYPE:			
<input checked="" type="radio"/> Assign to DTSC		DATE: <input type="text"/>	
PROGRAM <input type="text"/>	PRIORITY <input type="text"/>	CASE TYPE <input type="text"/>	SUPERVISOR <input type="text"/>
<input type="radio"/> No Further Action		<input type="radio"/> DTSC STAFF <input type="text"/>	
<input type="radio"/> Refer to Other DTSC Program			
<input type="radio"/> Refer to Other Agencies			
<input type="radio"/> Backlogged			
COMMENTS <input type="text"/>			
<input type="button" value="SPELL CHECK"/>			
<input type="button" value="Save Changes to Complaint"/>			

Receipt of Notification and Application for Reward

Log Number: _____

COMPLAINANT	SUBJECT OF INVESTIGATION
Name: _____	Name: _____
Address: _____	Business Name: _____
City: _____ Zip: _____	Address: _____
Phone: _____	City: _____ Zip: _____
_____	Phone: _____
_____	County: _____

RECEIPT OF NOTIFICATION

The Department of Toxic Substances Control has received your complaint regarding mismanagement of hazardous waste. This is to inform you of the Informant Reward Program. Please note, this is a voluntary program. Your report may result in the collection of civil or criminal fines or penalties; you may be eligible to receive a reward. To participate in this program an Application for Reward must be filled out and sent back to this office. Whether you participate in the Informant Reward Program or not, the information you reported will be investigated. Thank you for your interest and cooperation in helping to monitor mismanagement of hazardous waste in California.

Thank you for bringing this issue to our attention. If you wish to follow up on your complaint in the future, please refer to the Log Number above when you contact the Department.

Complaint Coordinator
Department of Toxic Substances Control

Log Number: _____

To the applicant: Please complete the information requested below. See the fact sheet for notification information. Your name and address will not be disclosed in conjunction with your notification or reward application unless it otherwise becomes publicly known in conjunction with a court proceeding or otherwise

Applicant's Name (Please print): _____

Address (Number and street): _____ City: _____ State: _____ Zip Code: _____

Person or Office Notified: _____ Date of Notification: _____

Brief summary of the information given. (This is for application processing only and is not a substitute for actual notification.)

CERTIFICATION

I hereby submit application for a reward pursuant to Section 25191.7 of the Health and Safety Code. I understand that all claims must be reviewed for eligibility as set forth in Title 22, Division 4.5, Chapter 22 of the California Code of Regulations.

Signature of Applicant

Date Signed

Factsheet on Payment of Rewards
(TO BE SENT WITH APPLICATION FOR REWARD)

California Health and Safety Code (HSC) section 25191.7 requires that a reward be paid when any person provides information which “materially contributes” to the imposition of a civil penalty or criminal fine assessed against a person for violation of the State’s hazardous waste control laws.

The amount to be paid is up to ten percent of the fine or penalty collected and deposited, or a maximum of \$5,000.00 for each case reported.

When do I receive my reward?

Within thirty days after the fine or penalty is collected and deposited into the county or State account.

How do I know I am an “eligible informant?”

The application must be submitted to either the Department of Toxic Substances Control (DTSC) or the local processing office within sixty days after the judgment is entered to determine eligibility.

Where do I file my application?

DTSC staff will work with you to make sure your application is filed with the correct office. All civil case applications are handled by DTSC’s Sacramento or Chatsworth offices listed below. All criminal case applications are processed by the office that prosecuted the case: the local attorney, district attorney, or the Office of the Attorney General.

Chatsworth Office
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, CA 91311
(818) 717-6551
(800) 698-6942
ATTN: Kevin Montevideo, Kevin.Montevideo@dtsc.ca.gov

Sacramento Office
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826
(916) 255-3638
(800) 698-6942
ATTN: Nyein Aung, Nyein.Aung@dtsc.ca.gov

Attachment E

Proposition 65 Reporting Requirements

Health and Safety Code (HSC) Section 25180.7.

- (a)** Within the meaning of this section, a “designated government employee” is any person defined as a “designated employee” by Government Code Section 82019, as amended.
- (b)** Any designated government employee who obtains information in the course of his or her official duties revealing the illegal discharge or threatened illegal discharge of a hazardous waste within the geographical area of his or her jurisdiction and who knows that the discharge or threatened discharge is likely to cause substantial injury to the public health or safety must, within 72 hours, disclose that information to the local Board of Supervisors and to the local health officer. No disclosure of information is required under this subdivision when otherwise prohibited by law, or when law enforcement personnel have determined that this disclosure would adversely affect an ongoing criminal investigation, or when the information is already general public knowledge within the locality affected by the discharge or threatened discharge.
- (c)** Any designated government employee who knowingly and intentionally fails to disclose information required to be disclosed under subdivision (b) shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. The court may also impose upon the person a fine of not less than five thousand dollars (\$5000) or more than twenty-five thousand dollars (\$25,000). The felony conviction for violation of this section shall require forfeiture of government employment within thirty days of conviction.
- (d)** Any local health officer who receives information pursuant to subdivision (b) shall take appropriate action to notify local news media and shall make that information available to the public without delay.

(Amended by Stats. 2011, Ch. 15, Sec. 187. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68. Note: This section was added on Nov. 4, 1986, by initiative Prop. 65 (the Safe Drinking Water and Toxic Enforcement Act of 1986).)

Government Code Section 82019

- (a)** “Designated employee” means any officer, employee, member, or consultant of any agency whose position with the agency:
 - (1)** Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical, or manual.
 - (2)** Is elective, other than an elective state office.
 - (3)** Is designated in a Conflict-of-Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.
 - (4)** Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.
- (b) (1)** “Designated employee” does not include an elected state officer, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.
- (2)** “Designated employee” does not include a federal officer or employee serving in an official federal capacity on a state or local government agency. The state or local government agency shall annually obtain, and maintain in its files for public inspection, a copy of any public financial disclosure report filed by the federal officer or employee pursuant to federal law.

(Amended by Stats. 2004, Ch. 484, Sec. 1. Effective January 1, 2005. Note: This section was added on June 4, 1974, by initiative Prop. 9.)