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Agency Secretary  
Cal/EPA



## Department of Toxic Substances Control

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Arnold Schwarzenegger  
Governor

To All Interested Parties:

The Department of Toxic Substances Control (DTSC) will conduct a public workshop to solicit input on:

### **Financial Test and Corporate Guarantee/Captive Insurance**

The workshop will be held at the following time and place:

**Date:** November 29, 2005  
**Time:** 9:00 A.M. to 1:00 P.M. (Ending time may be revised)  
**Location:** Coastal Hearing Room  
Joe Serna Jr. Cal/EPA Headquarters Building  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, California 95812

**Note: Visitors must check in with security upon entering the Cal/EPA building.**

DTSC representatives will summarize the issues. After the short presentation, DTSC will solicit comments and suggestions from workshop attendees. Below is a brief background on the issues.

If you are unable to attend, the workshop may be monitored live via audio webcast. The broadcast link will be available on the Cal/EPA website at: <http://www.calepa.ca.gov/broadcast/>. Questions and comments may be submitted in real time by sending an e-mail to: [coastalrm@calepa.ca.gov](mailto:coastalrm@calepa.ca.gov). DTSC staff will monitor e-mails and, as time allows, read them aloud. All questions and comments submitted via e-mail will be considered in DTSC's future actions.

\*\*\* This e-mail address is valid only for the duration of the workshop; all other correspondence should be made in accordance with the contact information listed at the end of this notice.

Travel information is available at <http://www.calepa.ca.gov/EPABldg/Location.htm>. To request special accommodations for persons with disabilities, please contact Barry Carr at (916) 323-6044 or [bcarr@dtsc.ca.gov](mailto:bcarr@dtsc.ca.gov).

**Notice to Hearing Impaired:** to obtain additional information, use the California State Relay Service at 1-888-877-5378 (TDD). Ask them to contact Barry Carr at (916) 323-6044.

The Department of Toxic Substances Control (DTSC) has the primary oversight over the regulation of hazardous waste in California, including hazardous waste facilities and their financial assurance mechanisms for closure, post-closure, corrective action, and liability. California Code of Regulations, title 22, allows hazardous waste facilities to provide for financial assurance with the use of a variety of mechanisms including trust funds, surety bonds, letters of credit, insurance policies, financial test and corporate guarantees.

### **FINANCIAL TEST ISSUES:**

Recent events (including instability in financial markets, problems with corporate accounting practices and bankruptcy issues with a major utility company using the financial test) have caused DTSC to reevaluate the stability and security of the existing financial assurance mechanisms used for hazardous waste facilities.

DTSC is soliciting discussion among interested parties regarding the issue of the financial test. Specific topics that DTSC would like to discuss during the workshop are:

#### **The use of the financial test and corporate guarantee**

Some areas for discussion:

1. The origin of the financial test and corporate guarantee.
2. What assurance does the financial test and corporate guarantee provide?
3. Basis for the elements of the financial test. Are they still valid?
4. "Negative Assurance" language. What "value" does it provide to the financial test?

### **CAPTIVE INSURANCE ISSUES:**

Captive insurance policies are insurance policies underwritten by partially or wholly owned subsidiaries of a parent company. Captive insurance companies have the ultimate effect of providing the same form of financial assurance as does the financial test. Captive insurance does not provide the same safeguards as the financial test. There is no annual review of the financial health of the facility or the captive, no independent assessment by a third party accountant, and no minimum net worth or financial ratios required.

DTSC is soliciting discussion among interested parties regarding the issue of captive insurance. Specific topics that DTSC would like to discuss during the workshop are:

#### **The use of captive insurance**

Some areas for discussion:

1. Does captive insurance provide the same level of assurance as third party insurance?
2. Should the use of captive insurance be allowed?
3. What assurance is provided by the licensing process for captive insurers in Vermont and other states? Would additional benefit be provided by requiring captive insurers to be licensed in California?
4. Should the use of captive insurance be limited to certain types of assurance? For example, liability only.

DTSC's website contains a discussion paper on the topics of the financial test and captive insurance. It is anticipated that the workshop will follow the discussion outlined in the paper. Go to our Web site at [www.dtsc.ca.gov](http://www.dtsc.ca.gov) and click on the "Laws, Regs & Policies" link. Locate the "Regulation Concepts" table under the "DTSC Rulemaking" section and click on the "Financial Assurance" link to view the discussion papers. Interested parties may also subscribe to an email list (listserv) in order to receive notices and information by email.

Subscription may be made at <http://www.calepa.ca.gov/Listservs/dtsc/>.

## All Interested Parties

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During the October 17, 2005 workshop, several attendees expressed interest in bringing subject matter experts to relevant workshops. Attendees and subject matter experts that would like to present relevant information, please contact Mr. Jan Radimsky at (916) 324-1819 or [jradimsk@dtsc.ca.gov](mailto:jradimsk@dtsc.ca.gov), at least 10 days prior to the relevant workshop.

Interested parties should monitor DTSC's web page. Materials for the workshop will be posted at least seven days in advance of the workshop. Participants are encouraged to download and review these documents prior to the workshop. Participants are encouraged to download and review the paper prior to the workshop.