



MANAGEMENT MEMO

MANAGEMENT MEMO- #EO-95-011-MM (Supercedes EO-93-22R-MM)

TITLE: AUTHORITY TO ISSUE SITE MITIGATION DOCUMENTS

AFFECTED PROGRAM: Site Mitigation Program

Background:

Historically, the Department of Toxic Substances Control (DTSC) used individual delegation orders to:

- designate persons authorized to issue enforcement orders (Health and Safety Code (H&SC) section 25187),
- issue fence and post orders (H&SC section 25359.5),
- enter into federal site remediation and operation and maintenance agreements (H&SC section 25355.5(a)(1)(C)),
- enter into land use restrictions (H&SC sections 25202.5, 25222.1(a), and 25355.5(a)(1)(C)),
- prepare and issue remedial action plans (H&SC sections 25356 and 25356.1)
- sign record of decisions (H&SC section 25356.1) issued by the United States Environmental Protection Agency (U.S. EPA) pursuant to section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986,
- certify remedial actions (Official Policy/Procedure #86-22),
- enter into superfund contracts, cooperative agreements, and grants with the U.S. EPA (Governor's Reorganization Plan No. 1, May 17, 1991, Section 146, H&SC section 58017),
- issue remedial action orders (H&SC section 25355.5(a)(1)(B)),
- enter into oral contracts for less than \$5,000 (H&SC section 25354),
- sign cost recovery agreements/settlements (H&SC section 25360 or 42 United States Code section 9601 et seq),

- issue complaints for administrative penalties (H&SC section 25359.3, added by stats. 1992, Ch. 1344),
- manage division and branch organization budgets,
- authorize the expenditure of funds from the Site Remediation Account (H&SC section 25337),
- enter into agreements under the California Expedited Remedial Action Reform Act of 1994 pursuant to H&SC Chapter 6.85, section 25398.2 (b),
- participate as DTSC representative on Skelly Hearings (Government Code section 19574),
- sign interagency agreements and memoranda of understanding with state and local agencies (H&SC section 58003),
- sign exemptions to DTSC hiring and expenditure freezes and forward to the Deputy Director of Administrative Services,
- adopt regulations (H&SC section 25351.5),
- determine that a release of a hazardous substance has occurred or is about to occur (H&SC section 25358.3(b)), and
- take action based on an imminent and substantial endangerment determination (H&SC sections 25358.3(a) and 25355.5 (b)(3)).

DTSC has streamlined the process for designating managers authorized to perform these functions using a management memo instead of individual delegation orders.

Action:

Effective October 1, 1995, managers holding specified positions are authorized to perform the stated functions on behalf of the Department:

1. Authorized Managers

Deputy Director, Site Mitigation Program
Chief, Statewide Cleanup Operations Division
Chief, Cleanup Operations Central California Branch
Chief, Cleanup Operations North Coast California Branch
Chief, Cleanup Operations Southern California Branch
Chief, Emergency Response and Statewide Operations Division
Chief, Emergency Response and Special Projects Branch

Chief, Office of Military Facilities Division
Chief, Office of Military Facilities Northern California
Branch
Chief, Office of Military Facilities Southern California
Branch
Chief, Office of Military Facilities Reuse and Headquarter's
Functions
Chief, Accelerated Remedial Action Program Branch

Functions

- a) Issue administrative enforcement orders (H&SC section 25187) and "fence-and-post" orders.
- b) Enter into federal site remediation and operation and maintenance agreements and other agreements which may provide for the execution and recording of a written instrument which imposes an easement, covenant, restriction, or servitude, or combination thereof, as appropriate, upon the present and future uses of the site.
- c) Prepare and issue remedial action plans.
- d) Sign, indicating DTSC concurrence with the selected remedy, records of decision issued by the U.S. EPA.
- e) Certify a remedial action in accordance with Official Policy and Procedure #86-22.
- f) Issue complaints for administrative penalties.
- g) Determine pursuant to Health and Safety Code, Section 25358.3(a), that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance, and, if so, is authorized to do any or all of the following:
 1. Order any responsible party or parties to take appropriate removal or remedial action necessary to protect the public health and safety and the environment,
 2. Take or contract for any necessary removal or remedial actions,
 3. Request the attorney general to secure relief that may be necessary to abate the danger or threat, and

4. Issue an order establishing a schedule for removing or remedying the release of a hazardous substance at a site, or for correcting the conditions that threaten the release of a hazardous substance pursuant to Health and Safety Code Section 25355.5 (a) (1) (B).
- h) Determine pursuant to Health and Safety Code, Section 25358.3 (b), that a release of a hazardous substance has occurred or is about to occur, and, if so, is authorized to do any or all of the following:
1. Undertake those investigations, monitoring, surveys, testing, and other information gathering necessary to identify the existence, source, nature, and extent of the hazardous substances involved and the extent of danger to the public health or environment,
 2. Undertake those planning, legal, fiscal, economic, engineering, architectural and other studies or investigations which are necessary or appropriate to plan and direct response actions, to recover the cost of those actions, and to enforce Chapter 6.8 of Division 20 of the Health and Safety Code, and
 3. Take or contract for any necessary removal or remedial action and take or contract for any actions authorized by either 2a. or 2b., above, in compliance with the provisions of Chapter 6.8 of Division 20 of the Health and Safety Code, including, but not limited to, subdivision (b) of Section 25355.
- i) Determine pursuant to Health and Safety Code, Section 25355.5 (b) (3), that removal or remedial action at a site is necessary because there may be an imminent and substantial endangerment to the public health or welfare or to the environment.

2. Authorized Managers

Deputy Director, Site Mitigation Program
Chief, Statewide Cleanup Operations Division
Chief, Cleanup Operations Central California Branch
Chief, Cleanup Operations North Coast California Branch
Chief, Cleanup Operations Southern California Branch
Chief, Emergency Response and Statewide Operations Division
Chief, Emergency Response and Special Projects Branch
Chief, Planning and Management Branch
Chief, Accelerated Remedial Action Program Branch

Functions

- a) Sign cost recovery agreements/settlements.

3. Authorized Managers

Deputy Director, Site Mitigation Program
Chief, Statewide Cleanup Operations Division
Chief, Cleanup Operations Central California Branch
Chief, Cleanup Operations North Coast California Branch
Chief, Cleanup Operations Southern California Branch
Chief, Office of Military Facilities Division
Chief, Office of Military Facilities Northern California
Branch
Chief, Office of Military Facilities Southern California
Branch
Chief, Office of Military Facilities Reuse Branch
Chief, Emergency Response and Statewide Operations Division
Chief, Emergency Response and Special Projects Branch
Chief, Engineering and Geology Support Branch
Chief, Accelerated Remedial Actions Program Branch
Chief, Planning and Management Branch

Functions

- a) Manage organizational budgets.

4. Authorized Managers

Deputy Director, Site Mitigation Program
Chief, Emergency Response and Statewide Operations Division
Chief, Emergency Response and Special Projects Branch
Chief, Emergency Response Unit
Emergency Response and Senior Hazardous Substance Scientists
Emergency Response Duty Officers

Functions

- a) Enter into oral contracts for less than \$5,000 for correction of danger to public health or the environment.

5. Authorized Managers

Deputy Director, Site Mitigation Program
Chief, Statewide Cleanup Operations Division
Chief, Office of Military Facilities Division
Chief, Emergency Response and Statewide Operations Division

Functions

- a) Enter into state superfund contracts, cooperative agreements, or grants with U.S. EPA or the Department of Defense.
- b) Participate as the Department's representative (hearing officer) at "Skelly" Hearings.
- c) Sign interagency agreements and memoranda of understanding with state and local agencies.
- d) Manage respective division budgets.

6. **Authorized Managers**

Deputy Director, Site Mitigation Program
Chief, Accelerated Remedial Action Program Branch

Functions

- a) Enter into agreements under the California Expedited Remedial Action Reform Act of 1994.

7. **Authorized Managers**

Deputy Director, Site Mitigation Program
Chief, Statewide Cleanup Operations Division

Functions

- a) Authorize the expenditure of funds from the Site Remediation Account -- no dollar limitation.

8. **Authorized Managers**

Chief, Planning and Management Branch

Functions

- a) Authorize the expenditure of funds (under \$100,000) from the Site Remediation Account.

9. **Authorized Managers**

Deputy Director, Site Mitigation Program

Functions

- a) Adopt regulations.


In addition to the specific delegated authority listed above, Branch Chiefs may delegate some of their authority to Senior level staff through memorandum. A copy of any such memorandum must be sent to the Planning and Management Branch in order to be valid and in no circumstances may authority be delegated to staff below the Senior level.

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Date


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