

## **DRAFT Lead-Acid Battery Recycling Facility Investigation and Cleanup Framework Document**

This document describes the Department of Toxic Substances Control's (DTSC) current efforts and proposed framework for investigating and cleaning up sites using funds provided by the Lead-Acid Battery Recycling Act of 2016 (AB 2153, Chapter 666, Statutes of 2016). It also seeks to involve the public in developing a program that helps to comprehensively address hazardous lead exposures and enhance the program's effectiveness in protecting public health.

### **Lead Acid Battery Recycling Act of 2016**

AB 2153 requires Lead Acid Battery manufacturers and dealers to pay a fee that is deposited in the Lead Acid Battery Fund (Fund). The Legislature can appropriate money from the Fund to DTSC to pay for the investigation (e.g., soil sampling and analysis), and cleanup (i.e., remedial, removal, or other response actions) at any area of the state that is "reasonably suspected" of being contaminated by past or present operations of a lead-acid battery recycling facility (facility). The Legislature can also appropriate money to repay the General Fund for the loan to pay for the cleanup of communities located near the Exide Battery Recycling Facility.

### **Current DTSC Site Evaluation and Prioritization**

DTSC has worked with United States Environmental Protection Agency (U.S. EPA) to evaluate previous and current facilities in California. This evaluation is focused on 39 sites, based on the review of U.S. EPA information; DTSC information, including EnviroStor database and other records; and the so-called "Ghost Smelters" identified by USA Today. The information includes documentation of previous investigations into secondary lead smelting operations.

DTSC evaluated potential sites using available information to determine if further investigation, cleanup, or other appropriate activities are needed to protect public health. DTSC also evaluated areas around potential sites, including residential properties. DTSC has prioritized four sites for investigation and potential cleanup or other activities, based upon DTSC's determination of potential health and environmental threats.

### **Proposed Comprehensive Process for Site Evaluation and Prioritization**

DTSC is proposing to enhance its evaluation and prioritization by considering additional information on lead hazards in areas with contamination from lead-acid battery recycling facilities. Other potential hazards include elevated blood-lead levels in children, housing stock that contains lead-based paint, and other sources of lead emissions. DTSC could use Fund monies to clean up contamination from lead-acid battery facilities, while leveraging Federal and local resources to help address multiple sources of lead exposure. DTSC's goal is to utilize Fund monies in a manner that provides the greatest health benefit to the people of California, particularly communities impacted by contamination from lead-acid battery recycling facilities.

## **Listening to the Public to Help Enhance This Program**

DTSC wants to engage the public on ways that help to enhance this program. To accomplish this objective, DTSC will begin by holding two workshops, one in the month of June in Oakland and the other in Southern California at the City of Commerce's Senior Center in the summer. DTSC is holding these workshops to discuss various concepts and obtain public input on how DTSC can best engage communities during the investigation and cleanup process. DTSC will also engage the public in a discussion about coordinating Federal, State and local activities, setting priorities for the best use of Fund monies for future investigation and cleanup actions, and enhancing program effectiveness in protecting public health and the environment.

## **Concepts and Questions to Enhance the Lead-Acid Battery Cleanup Program**

At these workshops, the public can provide DTSC with feedback on a variety of concepts and questions to enhance the program's effectiveness. The following material (including example responses) is meant to help guide this discussion.

### **1. Universe of Sites to Be Investigated**

As mentioned earlier, DTSC is evaluating the Ghost Smelters identified by USA Today and other potential Lead-Acid Battery Recycling Facilities. DTSC is also reviewing related information provided by U.S. EPA. DTSC will use this information to evaluate whether potentially contaminated areas associated with a facility, including nearby residential properties, qualify for investigation and cleanup or other response action under AB 2153.

In addition, DTSC is seeking assistance and information from other stakeholders, especially members of potentially impacted communities, that would aid in the discovery and further investigation of areas reasonably suspected of being contaminated by the operation of Lead Acid Battery Recycling Facilities. Toward that end, DTSC is interested in hearing your views on the following concepts and questions.

- a. What are the best ways for DTSC to provide the public with information about Lead-Acid Battery Recycling Facilities?
  - i. Publish a list of suspected lead-acid battery recycling facilities on a specific webpage.
  - ii. Publish a map of suspected lead-acid battery recycling facilities on a specific webpage.
  - iii. Maintain a site-specific webpage (e.g., EnviroStor) for each such facility which includes the site status, planned documents, and final documents.
  - iv. Identify areas where lead-acid battery recycling facilities may have been geographically clustered, and investigate potential patterns of releases from those facilities, to help determine areas to investigate for potential cumulative contamination.

- b. What can DTSC do to assist and encourage the members of impacted communities and other stakeholder groups to share information on sites potentially contaminated by Lead-Acid Battery Recycling Facilities?
  - i. Provide options for the public to report potential contamination from Lead-Acid Battery Recycling Facilities to DTSC, such as a link on a specific webpage or regional staff persons dedicated to responding to LABRIC-related calls.
- c. Once DTSC has identified a Lead-Acid Battery Recycling Facility, what types of outreach should DTSC conduct and what types of input should DTSC request from the public?

## **2. Coordination with Other Federal, State and Local Agencies**

U.S. EPA guidance on cleaning up lead-contaminated residential properties recommends that cleanup officials “identify and coordinate to the greatest extent possible with other authorities and funding sources...to design a comprehensive, cost-effective response strategy that addresses as many sources of lead as practicable.” (U.S. EPA, Superfund Lead-Contaminated Residential Sites, OSWER 9285.7-50, 51-53 and B-10 (2003)). Information concerning other potential lead exposures includes lead-based paint, interior lead-contaminated dust, lead deposited from burning of leaded gasoline in motor vehicles, drinking water plumbing that may contain dangerous levels of lead, and elevated blood-lead levels in children. Accordingly, DTSC is interested in your views on the following issues:

- a. When DTSC cleans up residential areas with AB 2153 funds, which are limited to use on contamination from Lead Acid Battery Recycling Facilities, in addition to protection of public health, what are the best ways for DTSC to prioritize cleanup efforts. Also, how can DTSC develop a comprehensive, cost-effective strategy that seeks to work with Federal, State and local governmental agencies that would address other sources of lead exposure as appropriate in residential settings?
  - i. Inform local governments of areas that may be addressed by AB 2153 work about DTSC’s potential cleanup activities, so these governmental agencies can solicit or designate funds or other resources to assist in abating other lead hazards.
  - ii. Consider prioritizing AB 2153 work in communities where local governmental agencies have secured funding to abate other lead hazards.
  - iii. Consider prioritizing AB 2153 work in communities where local governmental agencies agree to conduct public outreach and education on ways people can reduce exposure to potential and known sources of lead contamination.

- iv. Consider prioritizing AB 2153 work in communities where State and county public health data reveals elevated blood lead levels in children.

### **3. Process of Cleanup or Other Response Actions**

DTSC believes informing community members about and involving them in the process of deciding how and when AB 2153 work will occur can lead to more responsive decision-making. Please provide your thoughts on how to best inform and involve community members in this decision-making process.

- a. Should DTSC publish a list of Lead-Acid Battery Recycling Facilities and areas of potential contamination that will be proposed in the next funding cycle on a specific webpage?
  - i. If so, what summarized information should the website contain?
  - ii. What information should the website link to for further details?
- b. What factors should DTSC use to prioritize investigations and potential cleanups at facilities and areas of potential contamination?
  - i. Area conditions exceed DTSC's health-based standards.
  - ii. Direct exposure pathways to vulnerable receptors, such as human contact with contaminated soil or potential inhalation of airborne contamination from a facility.
  - iii. The number of residential properties in the area DTSC reasonably suspects a facility has contaminated.
  - iv. Whether a facility and any residential properties reasonably suspected of being contaminated by such a facility are located in disadvantaged communities or on tribal land.
  - v. Other factors not described above. If so, what factors?
- c. At what points in the investigation and cleanup process should DTSC meet with the impacted community and other stakeholders?
- d. What are the best ways to provide notification of and access to draft cleanup decision documents (and CEQA documents), which describe DTSC's preferred cleanup plan and alternatives, to the public and interested stakeholders for their review and comment?
- e. How should DTSC provide notification of a request for funding for cleanup or other response activities to the owners and residents of properties in an area reasonably suspected of being contaminated by a facility?

- f. What information should DTSC convey to owners and residents to help inform them about potential funding availability?

**4. Obtaining Access Agreements for Sampling and/or Cleanup or Other Response Activities**

Access to properties on and around suspected lead-acid battery recycling facilities is essential both for understanding the nature and extent of contamination and to complete any necessary remedial action. Toward that end, DTSC is required to obtain signed access agreements from owners and/or renters. How can DTSC best increase property owner and renters' response rates in providing the department with signed access agreements for these purposes?