

# DTSC's Voluntary Oversight Program – CLRRRA\* Quick Reference Guide

\*California Land Reuse and Revitalization Act

The California Land Reuse and Revitalization Act (CLRRRA) (Health and Safety Code Chapter 6.82 and 6.83) provides liability protections to:

- Bona Fide Purchasers
- Innocent Landowners
- Contiguous Property Owners
- Prospective Purchasers; and
- Bona Fide Ground Tenants

The liability protections are intended to promote the cleanup and redevelopment of blighted contaminated properties. The law establishes a process for eligible property owners to obtain immunities, conduct a site assessment, and implement a response action as necessary, to ensure that the property can be reused or redeveloped. Immunities begin when a party enters into a CLRRRA agreement. CLRRRA was first effective January 1, 2005. The sunset date for the original CLRRRA bill has been extended multiple times. The current sunset date is January 1, 2027.

## How different is the CLRRRA process from other DTSC voluntary agreements?

- CLRRRA encourages streamlined environmental approaches
- CLRRRA requires both applicant and site to meet specific eligibility criteria
- Prior to entering into a CLRRRA agreement, the Department of Toxic Substances Control (DTSC) notifies relevant regulatory agencies of the upcoming agreement, and that immunities will attach
- By entering into the CLRRRA agreement, the Applicant receives specific immunities
- Through CLRRRA, subsequent owners or lessees may benefit via Assignment & Assumption or Successor Agreements
- The CLRRRA assessment and cleanup implementation is expedited, while being as protective as any other DTSC process
- DTSC public participation, California Environmental Quality Act, and tribal consultation requirements apply

## All Appropriate Inquiries

One of the eligibility requirements for CLRRRA is that All Appropriate Inquiries (AAI), per ASTM E1527-05, be conducted within one year before purchase, with the following components conducted or updated within 180 days of the date of purchase:

- interviews with owners, operators, and occupants;
- searches for recorded environmental cleanup liens;
- reviews of government records;
- visual inspections of the property and surroundings; and
- the declaration by the environmental professional responsible for the assessment or update.

(See H&S Code Section 25395.65)

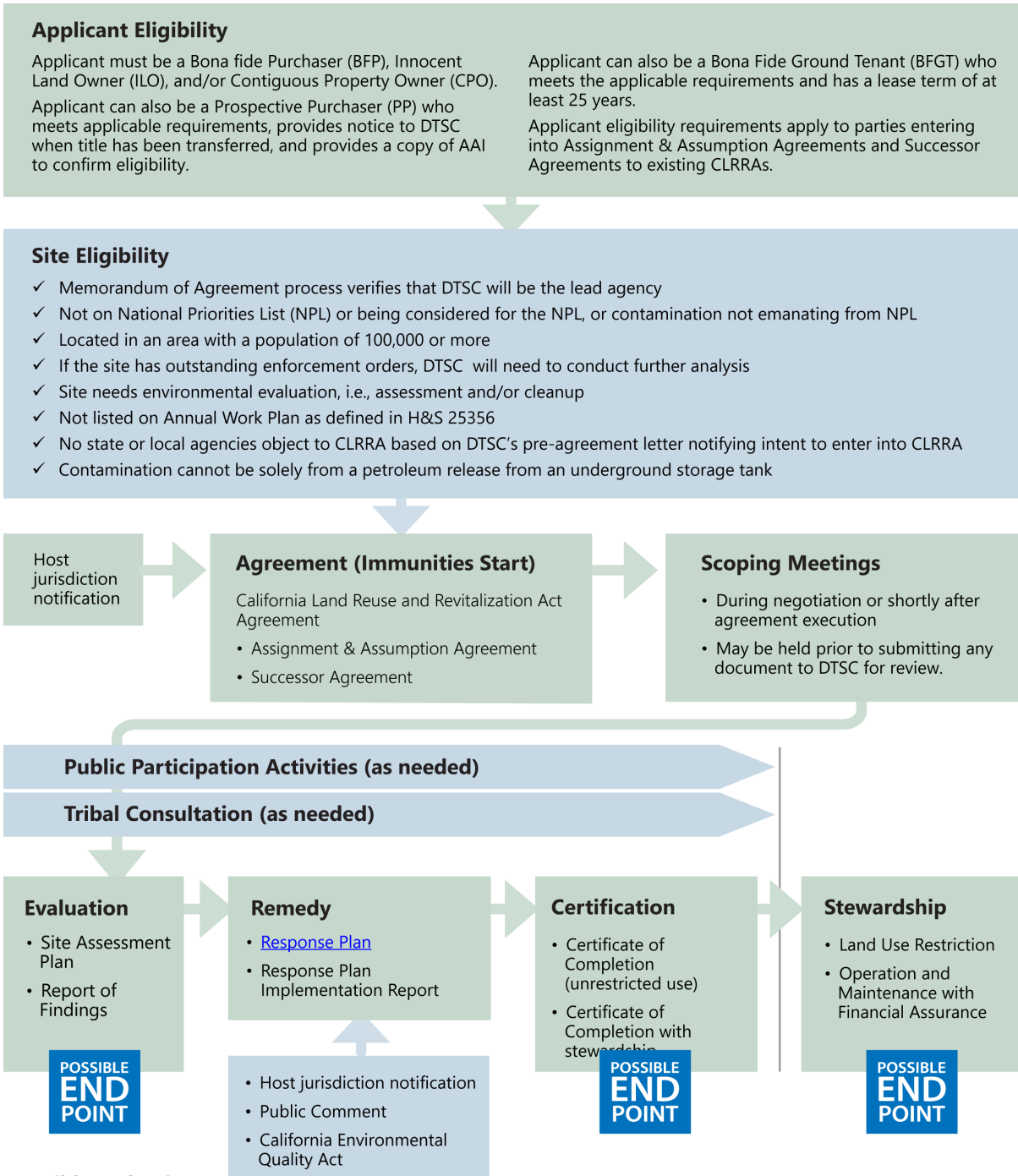
## Who can enter into a CLRRRA Agreement?

- Must be a Bona Fide Purchaser (BFP), Innocent Land Owner (ILO), and/or Contiguous Property Owner (CPO) who:
  - Took title after January 1, 2005
  - Did not cause or contribute to contamination
  - Is not affiliated with the party responsible for contamination
  - Conducted AAI as per ASTM E1527-05 prior to purchase
  - Is planning redevelopment and/or reuse
- Can also be a Prospective Purchaser (PP) who meets the applicable requirements, provides notice to DTSC when title has been transferred, and provides a copy of AAI prior to purchase to confirm eligibility
- Can also be a Bona Fide Ground Tenant (BFGT) who meets the applicable requirements, has a lease term of at least 25 years, and completed AAI prior to signing the lease.

(See H&S Code Sections 25395.69, .70, .75, .91 and .102 (a)(2).)

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**Possible End Points:**

1. Based on site assessment results, projects may conclude without the need for any further action;
2. based on assessment results, projects may conclude with only a Land Use Covenant, in which case a public notice process will be implemented via a Report of Findings; and,
3. Cleanup may either be conducted to unrestricted land use or require long-term stewardship.

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## Site Assessment Plan/Report and Report of Findings

Under the California Land Reuse and Revitalization Act (CLRRRA) the Site Assessment Plan is the first step of the process, with information about the Site including, when appropriate, a risk assessment. Information regarding reasonably anticipated foreseeable uses of the Site based on current and projected land use and zoning designations should be included. If the release has impacted groundwater, reasonable characterization of underlying groundwater is needed, including present and anticipated beneficial uses of that water.

After completion of a Site assessment, a CLRRRA project may move on to a Response Plan or a Report of Findings (which is equivalent to a Preliminary Endangerment Assessment). The Report of Findings may recommend no further action or no further action with a Land Use Covenant (LUC). If an LUC is the only remedy needed, the Report of Findings will undergo the public notice process.

## Response Form

Upon approval of a response plan, a party who qualifies for immunity under CLRRRA needs to submit a form to the Department of Toxic Substances Control (DTSC) with the following information:

- i. description, address, and location of the Site;
- ii. description of the type and extent of releases and threatened releases identified for response in the response plan;
- iii. estimate of the cost of the response action identified in the response plan;
- iv. description of the present and proposed use of the Site, including current and potential future zoning and land use designations;
- v. description of any land use restrictions; and
- vi. description and the concentrations of the release and threatened release that will not be remediated pursuant to the response plan.

## Response Plan (Cleanup Plan)

The CLRRRA Response Plan (Health & Safety Code 25395.96, equivalent to a Removal Action Work Plan) shall:

1. clearly identify the release or threatened release that is the subject of the Response Plan, and document that the plan is based on an adequate characterization of the Site. CLRRRA immunities will apply only to media and contaminants addressed by the Response Plan;
2. identify the response objectives and the proposed remedy, identify future land uses of the Site, and identify current and projected land use and zoning designations which need to be confirmed by the host jurisdiction;
3. include a description of activities that will be implemented to control any risk to human health and safety or the environment that may occur during the response action at the Site;
4. include a description of any land use control that is part of the response action;
5. include provisions for DTSC to require further response actions based on the discovery of hazardous materials that pose an unreasonable risk to human health and safety or the environment that are discovered during the course of the response action or subsequent development of the Site;
6. include DTSC's standard public participation process, and if desired, propose the use of alternative methods for public participation. DTSC shall coordinate its public participation activities with those undertaken by other agencies associated with the development of the property to avoid duplication of efforts;
7. include information on how decisions about the Site are made and the recourse that is available for those who may disagree with DTSC's decision; and,
8. consider the issue of environmental justice before taking action on the response plan
9. DTSC will notify all appropriate regulatory agencies of the approval of the Response Plan. If the use of the property changes to one that requires a higher level of protection, DTSC may require the preparation and implementation of a new response plan.
10. If an Operation and Maintenance plan is required to maintain the long-term efficacy of a response, DTSC will request a CLRRRA Operation and Maintenance Agreement. Note that five-year reviews are not required for CLRRRA projects."