

Program Overview

Program Name: Brownfields and Environmental Restoration Program California Department of Toxic Substances Control

Summary: Two regulatory bodies within the California Environmental Protection Agency (Cal/EPA) oversee the cleanup of brownfields in California, the Department of Toxic Substances Control (DTSC) and the Regional Water Quality Control Boards (Water Boards). DTSC generally oversees the cleanup of hazardous substance releases, while the Water Boards generally oversee the cleanup of petroleum and other hazardous materials that could potentially affect water quality. While there is overlap in implementing these programs, the Water Boards generally address brownfields cleanups using their Spills, Leaks, Investigations and Cleanup Program (SLIC) or their Leaking Underground Storage Tank (LUST) Cleanup Fund Program.

Website: <http://www.dtsc.ca.gov/SiteCleanup/>

Funding Source(s) for the Program: State accounts and reimbursements, federal grants

Cost to enter program or fees for service: DTSC is obligated to recover its costs and does this through voluntary cleanup agreements, reimbursement agreements, contracts and settlements. The Water Board's SLIC program also requires reimbursement of staff costs.

Sites Enrolled in VCP: As of January 2017, DTSC and Water Boards staff conduct and oversee cleanup on an average of 1,500 sites at any given time. Site-specific information can be found at: <http://www.envirostor.dtsc.ca.gov/public/> and <http://www.geotracker.swrcb.ca.gov/>

Sites Completed under VCP: As of January 2017, DTSC staff issued either certifications or no further action decisions on over 561 voluntary cleanup sites.

Contacts

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Assessment and Cleanup Funding

A variety of grants, loans and technical assistance is available to assist with brownfields reuse projects.
http://www.dtsc.ca.gov/SiteCleanup/Brownfields/Loans_Grants.cfm
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/

Liability Relief Provisions

- ▶ California's Lender Liability law (Health and Safety Code (HSC) 25548-25548.7) exempts lenders from liability under state and local laws and ordinances (but not from common law liability) provided they do not participate in the management of the property and did not directly contribute to the release or potential release of hazardous substances on the property. Lenders acquiring property through a foreclosure or its equivalent must make a good faith effort to sell the property.
- ▶ California Land Reuse and Revitalization Act (AB389) - <http://www.dtsc.ca.gov/SiteCleanup/Brownfields/BrownLandReuse.cfm>
- ▶ Prospective Purchaser Agreements and Liability Relief - <http://www.dtsc.ca.gov/SiteCleanup/Brownfields/BrownProsPurchaser.cfm>
- ▶ Site Designation Committee - <http://www.calepa.ca.gov/Programs/SiteDesig/>
- ▶ Local Government Agency Program (AB 440) - Provides immunity from liability for local agencies and subsequent property purchasers when local agencies clean up hazardous substance releases on a

blighted property in accordance with specified procedures. <http://www.dtsc.ca.gov/SiteCleanup/Brownfields/BrownfieldsVoluntaryProgram.cfm>

Contaminants Managed

DTSC generally regulates hazardous substances, consistent with the federal definition. Petroleum releases from non-underground storage tank releases may also be addressed. DTSC's Schools Team also addresses naturally-occurring chemicals. The Water Boards regulate hazardous materials which include petroleum hydrocarbons.

Asbestos: Yes

Lead: Yes

PCBs: Yes

Petroleum and Fuels: With Conditions - Releases from non-underground storage tank

Other Contaminants: Yes - Generally regulates hazardous substances consistent with federal definition

Institutional Controls

The state allows ICs, monitors, and enforces cleanups, and completes audits. ICs include well drilling restrictions, easements, restrictive covenants, reversionary interests, deed restrictions, and notices placed on deeds. As mandated by state law, DTSC and the Water Boards maintain a list of deed-restricted properties that is available on the Internet. <https://dtsc.ca.gov/SiteCleanup/SCLandUseRestrictionSites.cfm> and http://www.waterboards.ca.gov/water_issues/programs/deed_restrict/

IC Tracking: ICs used by DTSC to notify the public include posting sites, publishing notices in newspaper, creating mailings for local residents, and maintaining the EnviroStor database. The state has a process outlined in statute to remove a deed restriction if a site is remediated to unrestricted use.

IC Oversight: DTSC is currently utilizing the Terradex™ LandWatch system to give early notification of potential activities on properties subject to land use restrictions implemented as part of a final remedy for a site under DTSC oversight.

IC Monitoring: In addition to deed restrictions, DTSC's regulations also require financial assurance for sites that are not cleaned to levels appropriate for unrestricted use. DTSC also requires the periodic review of site conditions to ensure that site conditions have not changed and that the remedy is still effective.

Related Programs

Voluntary Cleanup Program

<https://dtsc.ca.gov/SiteCleanup/Brownfields/BrownfieldsVoluntaryProgram.cfm>

Underground Storage Tanks (UST) Program

http://www.waterboards.ca.gov/water_issues/programs/ust/