

Department of Toxic Substances Control
Public Participation Manual

CHAPTER 3
SITE MITIGATION PROCESS

Chapter 3 ♦ Site Mitigation Process

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Overview of the Site Mitigation Process

Overview

Public participation is an integral part of DTSC's Site Mitigation Program, by law, regulation and policy.

Public participation ensures that there is two-way communication between the public and the public agencies responsible for making decisions regarding hazardous substance release site investigations and remediation. It ensures that public input and concerns are considered before final decisions are made. It assumes that citizens in a democracy have a right to know about the activities of public agencies and to participate in those activities if they so choose. Public participation assumes that agencies benefit from public input, and thereby make better decisions.

The timing of public participation activities is critical to the success of the program. Early and meaningful involvement also enhances agency credibility with the public, lessening the likelihood of public outrage that occurs if a community feels it has been excluded from the agency decision-making process. Both state and federal laws require this kind of early involvement when hazardous substance release sites are investigated and remediated.

The following subsections provide specific authority and policy for public participation in site mitigation.

Statutory and Regulatory Authorities

CERCLA*	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, known as the Federal Superfund or “CERCLA” [42 U.S.C.A. § 9601 et seq.].
SARA*	Superfund Amendments and Reauthorization Act (SARA), (1986), which amended CERCLA (Pub. L. 99-499).
40 C.F.R.	Title 40 of the Code of Federal Regulations [40 C.F.R.] contains the regulations promulgated by the United States Environmental Protection Agency implementing CERCLA.
NCP*	National Oil and Hazardous Substances Pollution Contingency Plan (NCP). Subpart E of the NCP establishes the procedures for responding to releases of hazardous substances, pollutants and contaminants [40 C.F.R., § 300.1 et seq.] The NCP was substantially revised in 1990. See 55 Fed. Reg. 8813, March 18, 1990.
	*NOTE: Besides the public participation activities enumerated in 40 C.F.R., the publication titled <i>Community Relations in Superfund: A Handbook</i> , published January, 1992 by the U.S. EPA lists required and suggested public participation activities relevant to Superfund response actions.
NEPA	The National Environmental Policy Act (NEPA) [42 U.S.C. Sec. 4321 et seq.] establishes an environmental review process that is separate from, but similar to, that under CEQA. However, under NEPA public participation applies only to federal agencies. A project is subject to NEPA when it requires permits, entitlements, or funding from a federal agency; when it is jointly undertaken with a federal agency; or when it is proposed on federal land.
CERFA**	Community Environmental Response Facilitation Act (CERFA), (1992) amended CERCLA to facilitate the rapid identification and return to local communities of clean properties identified in the Base Realignment and Closure (BRAC) process [42 U.S.C.A. § 9620]. CERFA requires public consultation as described in this chapter.
E.O. 12580**	Executive Order 12580, (1987), delegates to different departments and agencies, including Department of Defense and Department of Energy, specific responsibilities which have been assigned to the President under CERCLA/SARA.
FFCA**	Federal Facilities Compliance Act (FFCA) (1992) amended RCRA to waive sovereign immunity to ensure that federal facilities are subject to the requirements of RCRA to the same extent as private parties (See 42 U.S.C.A. § 6901 note).

**NOTE: These sections apply to Military Facilities only

HSA

The Hazardous Substance Account (HSA), (1981 re-authorized 1999) is California's Superfund program. Health & Safety Code, Division 20, Chapter 6.8 [HSC § 25300 et seq.].

HSC Section 25356.1 requires that all remedial action plans are based upon the NCP and spells out public participation requirements that must be met before DTSC issues a final remedial action plan.

HSC Section 25358.7 mandates that DTSC provide any person affected by a removal or remedial action the opportunity to participate in DTSC's decision-making process regarding that action.

HSC Section 25358.7.1 allows an affected community to establish a community advisory group to review any response action and comment on the response action being conducted in that community.

HSC Section 25358.8 establishes that a community advisory group may request in writing that a responsible party(ies) funds a technical assistance grant for the purpose of providing technical assistance to the group.

ERAP

The Expedited Remedial Action Program (ERAP) was established in Chapter 6.85 of the Health and Safety Code. Entitled the "California Expedited Reform Act of 1994" [HSC Section 25396], the Chapter applies to 30 sites that are designated as part of a pilot program to expedite the remediation of contaminated properties. Section 25398.6 (i), specifically details public participation requirements.

CEQA

California Environmental Quality Act (CEQA), (1970, amended in 1993) requires state and local agencies to disclose and consider the environmental implications of their decisions, and to avoid or reduce the significant environmental impacts of their decisions whenever it is feasible. [Public Resources Code § 21000 et seq.].

The State CEQA guidelines, developed by the Office of Planning and Research and adopted by the Secretary for Resources, are binding on all state and local agencies [Title 14, CCR, § 15000 et seq.].

1999 Statutory and Related Policy Updates

State Superfund Reauthorization

In May 1999, Governor Gray Davis signed into law Senate Bill 47 (Sher) that re-authorized California's Superfund program. The bill kept alive all previous public participation requirements for the various stages of investigation and cleanup, and added several new requirements for those sites that fall under the provisions of the law.

HSC Section 25358.7 (a) states: "The department or regional board, as appropriate, shall take the actions specified in this section to provide an opportunity for **meaningful** (emphasis added) public participation in response actions undertaken for sites listed pursuant to HSC Section 25356."

When performing a response action (removal or remedial action) as defined in HSC Section 25323.3, general provisions of the law [HSC Section 25358.7] require DTSC or the regional water quality control boards to:

- ◆ Provide any persons affected by a response action (removal or remedial action) with the **opportunity to participate** in the decision-making process;
- ◆ Provide **access to information** which DTSC and the regional water quality control boards are required to release under the California Public Records Act;
- ◆ Provide **fact sheets**, based on the expressed level of public interest, about plans to conduct the major elements of the site investigation and response action(s). (This section also requires that fact sheets "present relevant information in non-technical language...detailed enough to provide interested persons with a good understanding of the planned activities...(and available) in languages other than English, if appropriate.")
- ◆ Provide interested parties with **notification of public meetings**; and
- ◆ Provide interested parties the **opportunity to attend** public meetings.

HSC Section 25358.7 (b) requires DTSC to conduct a **baseline community survey**, for listed sites as defined in HSC Section 25356 (b), at the earliest stages of the project. The purpose of the survey is to inform the public of the existence of the site and DTSC's plans for the site, and to solicit and evaluate public concerns.

HSC Section 25358.7 (c)(5) states that based upon the survey, DTSC **shall provide opportunities for public involvement** at key stages of the response action process. Key stages include the health risk assessment, the preliminary assessment, the site inspection, the remedial investigation, and the feasibility study. Further more, DTSC is required to **notify the community** if it decides that public meetings or other opportunities for public comment are **not** appropriate at these stages.

HSC Section 25358.7 (d) requires DTSC to **develop and make available** to the public a schedule of activities for each site where remedial action is expected to be

taken, and to **make available** to the public **any** plan provided to DTSC by the responsible party unless otherwise excluded.

HSC Section 25358.7 (e) requires DTSC to **incorporate or respond in writing** to the advice of the community when making decisions regarding the methods to be used for removal or remedial actions.

The law also provides the public with broader opportunities to become involved in DTSC's decision-making process. These provisions include:

Community Advisory Group

HSC Section 25358.7.1 gives communities the opportunity to form a Community Advisory Group (CAG). The CAG is designed to give the community the opportunity to review any response action proposed by DTSC. DTSC must assist in the formation of the CAG, and must also "regularly communicate and confer as appropriate" with the CAG. In addition, DTSC is required to advise local environmental, regulatory and other appropriate local agencies about planned response actions, and provide them with the opportunity to comment.

If DTSC receives a petition signed by at least 50 members of the community, or a resolution adopted by the legislative body for the community (usually the city council or board of supervisors), DTSC may circulate a notice of intent to create a CAG to the mailing list, and publish that notice in a newspaper of general circulation. The notice shall indicate:

- ◆ DTSC has received a petition or resolution asking for a community advisory group;
- ◆ The site name and location;
- ◆ The type of contamination (if known);
- ◆ A brief description of the duties expected of a CAG member;
- ◆ Information on how to obtain an application for CAG membership; and
- ◆ Any deadline to apply for CAG membership.

DTSC may distribute applications to those expressing an interest in CAG membership, collect submitted applications, and form a selection committee consisting of representatives of the petitioners, the local governing agency and other representatives as appropriate and necessary. The selection committee's sole purpose is to review applications and appoint CAG members. The selection committee will be disbanded after appointment of the CAG members.

To the extent possible, the CAG shall reflect the composition of the affected community and the diversity of interests of the community, including:

- ◆ Persons owning or residing on property located near the site or in an adjacent community. This excludes the responsible party if the responsible party is a property owner. Section 25358.1 (c)(3) defines the responsible party's participation as only providing information and technical expertise;

- ◆ Members of the business community;
- ◆ Local political or government representatives; and
- ◆ Members of local citizen, civic, environmental or public interest groups.

DTSC, the regional water quality control board, local environmental agency representatives and the responsible party may not participate in a CAG as members, but should be present to provide this information and technical expertise. Information can take several forms. In general many of the CAG's questions can be answered verbally at the meeting, while others may require more research. Typically, CAG members require written materials and documents to help them better understand the site. Because this need will vary from site to site, the Project Manager and Public Participation Specialist should seek input on this early on. In any case, DTSC should make every effort to ensure that the CAG has its written and verbal informational needs met. One issue that may arise out of this discussion is the cost associated with the CAG's operation. DTSC staff members should ensure there is an understanding as to who will pay for reproduction of printed materials, cost of meeting room rentals, etc. While DTSC funds are not available for these purposes, assistance may be available through the responsible party, a local agency, or a non-profit group such as the chamber of commerce. Use of electronic information may greatly ease the costs. It is recognized that some communities may seek more than DTSC's technical expertise. CAGs may want to hire a third party technical expert to assist them in understanding technical issues (see subsequent section on Technical Assistance Grants).

A CAG is not intended to usurp the authority or functions of a Restoration Advisory Board or Technical Review Committee formed at a military base, nor should it affect the status of citizens' advisory groups in existence prior to the signing of SB 47.

If DTSC receives a petition and a resolution, or two petitions from community groups, DTSC may convene a panel composed of a DTSC representative and representatives from each interested group to determine the best alternative for creating a CAG. If an agreement cannot be reached, DTSC shall decide on the best alternative and inform all interested parties. This determination shall be based on when the petitions/resolutions are received, the level of impact that the remedial action will have on a petitioner or legislative body, community interest and other relevant factors. Following DTSC's recommendation, if a petitioner is interested in forming a separate CAG, it can do so.

Community Services Offices

HSC Section 25358.7.2 (a) required DTSC to establish two Community Services Offices (CSO) by July 1, 2000. The function of these offices is to **facilitate communication among the department or regional board, the responsible parties, and the affected community** at sites where investigative or remedial actions are taking place. The Public Participation Unit within each region serves as the Community Service Office for that area.

The CSOs will also assist Community Advisory Groups. More specifically, staff assigned to a CSO will be able to assist a CAG in its formative process, and provide broad information about DTSC regulations, guidance and policy, as well as other general information. The Public Participation Specialist and Project Manager assigned to each site, rather than the local CSO staff, will provide the CAG with site-specific information.

Technical Assistance Grants

HSC Section 25358.8 allows a CAG to request a Technical Assistance Grant (TAG) from the responsible party(ies). The purpose of these grants is to provide funding for the CAG to hire a technical expert to provide technical expertise to the CAG. A responsible party is not mandated to fund the TAG request, and the selection of the technical expert should be made utilizing federal EPA guidelines, which can be found at: www.epa.gov/fedrgstr/EPA-GENERAL/2000/October/Day-02/g24047.pdf.

Roles and Responsibilities

Public participation is required by law and is critical to the success of the Site Mitigation process. All DTSC staff share responsibility for public participation. The Public Participation Specialist serves as both an advisor and an overseer of public participation activities at a site. It is necessary for the Public Participation Specialist and Project Manager to meet and determine specific responsibilities for public participation activities at a site, i.e., who will compile the mailing list; who will compose the first draft fact sheet, etc.

The Project Manager is responsible for making technical decisions and providing public participation support. The Public Participation Specialist is responsible for making all decisions regarding public participation in consultation with the Project Manager, and for ensuring that all public participation activities are carried out according to community need, DTSC policy, regulations and statutes. This responsibility may be delegated to the Project Manager when public participation resources are inadequate.

Public Participation Supervisor

The Public Participation Supervisor is responsible to:

- ◆ Ensure that all applicable Federal and State laws, regulations, and directives regarding public participation for site mitigation are executed at all hazardous substance release sites in California;
- ◆ Advise DTSC Site Mitigation managers (Unit Chiefs, Branch Chiefs, Division Chiefs) on matters pertaining to public participation;
- ◆ Manage the public participation workload and budget, and provide supervision and support; and,
- ◆ Manage the administrative support for the Public Participation Branch.

Public Participation Specialist

A Public Participation Specialist works closely with each site Project Manager, and is responsible to:

- ◆ Identify requirements and plan appropriate public participation activities and techniques;
- ◆ Monitor and, if resources are available, initiate public participation activities being conducted;
- ◆ Serve as an advisor to Project Managers, Unit Chiefs, and Branch Chiefs on issues of community concern and involvement;
- ◆ Elevate critical public participation issues to the Public Participation Supervisor;
- ◆ Ensure that all public participation requirements of CERCLA, SARA, NCP, H&SC and DTSC policy are being met; and,
- ◆ Provide direct input and oversight, as appropriate, to ensure that the community outreach program is effective in achieving the intent of the HSC, CERCLA, and the NCP public participation provisions.

NOTE: The Public Participation Specialist may be assigned to coordinate all public participation activities at the more complex and controversial sites while the Project Manager has review and approval responsibilities for technical activities. In all cases, the Public Participation Specialist has final review and approval for completeness and quality of public participation activities and documents, while the Project Manager is responsible to ensure all technical information in the public participation document is accurate.

- Project Manager** The Project Manager manages and oversees all technical activities conducted at the site. In addition, the Project Manager is responsible to:
- ◆ Coordinate with the Public Participation Specialist assigned to the project to ensure that appropriate public participation requirements of CERCLA, SARA, NCP, HSC and DTSC policy are fulfilled;
 - ◆ Be familiar with all required and optional public participation activities, and must be prepared to initiate and manage those activities throughout the site mitigation process, if Public Participation Specialist resources are unavailable; and,
 - ◆ Consult regularly with the Public Participation Specialist assigned to the project and ensure the Public Participation Specialist is kept apprised of all technical aspects of the project in which the public may have interest.
-

Responsible Party (RP) Public participation includes many activities for which responsible parties and their contractors must provide support. Some activities involve routine assistance in ongoing site work; others involve behind-the-scenes preparation; and still others may require specific expertise, such as presenting sampling results or discussing engineering plans. Consultants may assist with conducting community interviews and preparing Public Participation Plans. Consultants should ensure that technical information is accurate and understandable. The amount of consultant assistance that is required and the division of responsibility between an agency and the consultant will vary significantly from site to site. All public participation work performed by responsible parties and their consultants must be reviewed and approved by the Public Participation Specialist prior to its release to the community. The Public Participation Specialist and the Project Manager should work closely with the responsible party when delegating tasks to consultants to ensure consultants are given clear work directives.

The Site Mitigation Process

The following steps are listed in the ideal configurations. Not all projects will follow this process, however the requirements should apply regardless of the order.

Site Screening

DTSC's Site Screening is an initial review of available information used to determine if a potential release site identified during discovery requires action. Site mitigation staff collect and review information to determine whether known or potential hazardous substance contamination exists.

Preliminary Endangerment Assessment

A Preliminary Endangerment Assessment (PEA) is conducted to determine whether current or past chemical use practices have resulted in the release or threatened release of hazardous substances that may pose a threat to public health and/or the environment. The PEA is submitted to DTSC to determine if further action is necessary.

The objectives of the PEA are to:

- ◆ Determine if a release or potential for release exists at the site and delineate the general extent of the contamination;
- ◆ Estimate the potential threat to public health and/or the environment;
- ◆ Determine if an expedited response action is required;
- ◆ Determine data gaps following an initial scoping to identify remedial action strategies;
- ◆ Scope for future actions including the need for no further action; and
- ◆ Assess the informational needs of the community.

Public Participation requirements:

- ◆ If during a PEA, it becomes clear that the site will be listed, then a **Baseline Community Survey** is conducted to inform the public of the existing site and DTSC's intent to investigate. The survey is also used to determine the level of public interest, to solicit and evaluate concerns, and to identify public involvement needed. **(Note: A Baseline Community Survey is required for sites that are "listed" pursuant to HSC Section 25356, and school sites where it is contemplated that further remedial investigation is required following the PEA. Chapter 6.8, HSC Section 25358.7 (b) states that DTSC shall conduct the Baseline Community Survey "as soon as possible" after taking an action to investigate or remediate a "hazardous substance release site").**
- ◆ Community profile. **A community profile must be submitted with the PEA. Consult the Public Participation Specialist to discuss the profile requirements.**
- ◆ For potentially high interest sites, consider community notification such as a fact sheet, letter, public notice or meeting.

No Further Action

At the conclusion of a PEA, it may be determined that no further response action is necessary for sites that do not pose a threat to public health and the environment. Prior to issuing a “No Further Action” determination, DTSC must be shown proof that the property owner has been notified. [H&SC Section 25355.8].

Public Participation requirements:

- ◆ On potentially high profile sites, the DTSC project manager consults with the public participation specialist and utilizes the community profile to determine if public involvement or notification activities are necessary.

Remedial Investigation and Feasibility Study

A technical work plan, known as the Remedial Investigation/Feasibility Study (RI/FS) Work Plan (Note: This is sometimes separated into two documents), is developed to investigate site contamination. During the Remedial Investigation, extensive sampling and analyses are performed to determine the nature and extent of the site contamination. Potential remedies are selected and evaluated in the Feasibility Study. (Note: A risk assessment sometimes accompanies the RI/FS document(s). From a community perspective, this is one of the most important aspects of the cleanup process. Every effort should be made by DTSC to ensure the community understands the purpose of a risk assessment (which, simply put is an evaluation of the potential health risk associated with a particular cleanup alternative, rather than a statement of past risk or a study of existing health problems within a community).

Note: The Remedial Investigation is a critical point in the Site Mitigation process where close coordination between the Project Manager and the Public Participation Specialist is essential. Project Managers must consult the Public Participation Specialist prior to the beginning of the RI to discuss the Public Participation Plan requirements.

Public Participation activities for listed sites:

For sites listed pursuant to H&SC Section 25356, and where a Remedial Action Plan (see definition in following section) is anticipated the following public participation activities **shall be conducted as soon as possible after DTSC takes an action to investigate or remediate a site, and must be closely coordinated with the Public Participation Specialist:**

- ◆ Prepare and distribute a **Baseline Community Survey**, [Section 25358.7 (b)], utilizing a transmittal such as a letter or fact sheet. When the survey results show community interest, DTSC shall provide additional fact sheets. The initial contact with the community, in particular those living in close proximity with the site, (whether a letter or fact sheet), provides introductory information about the site and the remediation process. The transmittal letter or fact sheet shall be made available in languages other than English, if appropriate the survey can help identify sensitive uses and population. [Section 25358.7 (c)(2)];
- ◆ If, based on the Baseline Community Survey, the Public Participation Specialist in consultation with the Project Manager determines that no public participation activities are appropriate for the health risk assessment, preliminary assessment,

remedial investigation and feasibility study, then a notice to the affected community is required. [H&SC Section 25358.7 (c)(5)]. Notification can be in the form of a letter, fact sheet or public notice, based on the recommendation of the Public Participation Specialist.

- ◆ Conduct **community interviews** [40 CFR § 300.430(c)(2)(I)];
- ◆ Prepare (with community involvement) a **Public Participation Plan**,

before starting fieldwork for the RI. Consider placing the documents on DTSC's web site. The Public Participation Plan contains the site-specific community involvement strategies and is made available to the public during the early phases of the RI/FS [40 CFR § 300.430(c)(2)(ii)(A-C)];

- ◆ Fact sheets shall be distributed to the site mailing list based on the level of interest regarding plans to conduct the major elements of the site investigation and response action. The fact sheet shall be in non-technical language, be translated into other languages as appropriate, and provide information on the planned activities.
- ◆ Plan and conduct **community meetings and/or workshop(s) or open houses** if necessary;
- ◆ Establish **information repository(ies)**; and
- ◆ Comply with the National Contingency Plan.

Draft Remedial Action Plan

The Draft Remedial Action Plan (Draft RAP) contains a summary of the Remedial Investigation and Feasibility Study, a summary of the health risk assessment, and presents the proposed remedy for the site. The Draft RAP is prepared concurrently with the required California Environmental Quality Act (CEQA) documents.

The Project Manager and Public Participation Specialist work closely to inform the public about the Draft RAP and CEQA document, and to obtain public comment.

Required Public Participation activities:

- ◆ Hold a 30-day minimum **public comment period**. A Draft RAP, and the companion CEQA compliance document (where applicable) must be public noticed for a minimum of 30 days. If the CEQA document includes an Environmental Impact Report, the public comment period is a minimum of 45 days. When the CEQA public notice period is 45 days, the Draft RAP is also public noticed for 45 days. Consider placing the documents on DTSC's web site. [CFR § 300.435(C)(ii)], HSC Section 25356.1(e) (1); 42 U.S.C.A. 9617(a)(2); 300.430(f)(3)(i)(C)];
- ◆ Ensure Draft RAP and supporting documents are in the local public repositories. [CFR Section 300.430];
- ◆ Provide **public notice** in a language appropriate to the affected community (as determined by the community assessment), of the availability of the Draft RAP and the CEQA documents in a newspaper of general circulation [HSC

25356.1(e)(2); 42 U.S.C.A. § 9617 (a) and (d); 40 C.F.R. § 300.430(f) (3)(i)(A)] (and on DTSC's web site);

- ◆ Prepare and distribute a **fact sheet** to the mailing list in languages appropriate to the affected community. The fact sheet describes the Draft RAP, and announces the public comment period and the public meeting. [HSC § 25358.7(c)(2)];
- .. **Post notices** at the site location [HSC § 25356.1(e)(2)];
- .. **Notify local and affected agencies** (identified in the community assessment) by direct mail. [HSC 25356.1 (e)(2)]. This can be accomplished by mailing the fact sheet to the appropriate contact people at the local and affected agencies, which are identified in the community assessment.
- .. **Notify the owners of property** contiguous to the site (identified in the community assessment) by direct mail. It is suggested that tenants of contiguous properties be notified as well. Note: This can be satisfied by mailing the fact sheet. [HSC § 25356.1(e)(2)];
- ◆ Hold at least one **public meeting** within the community in an appropriate location to discuss and receive public comments on the Draft RAP and CEQA documents [H&S 25356.1(e)(3); 42 U.S.C.A. §§ 9613 and 9617(a)(2); 40 C.F.R. § 300.430 (f)(3)(i)(D)];
- ◆ Provide a **taped or written transcript**, including a record of comments received during the public meeting [40 CFR Section 300.430 (f)(3)(i)(E); RAP Policy and Procedure]; and
- ◆ Comply with the National Contingency Plan.

Final Remedial Action Plan

Following the public comment period, DTSC selects the final remedy for the site and must inform the public of the final selected remedy. Any fundamental changes from the remedy proposed in the Draft RAP must be re-noticed for public comment and a public meeting held during the 30-day comment period [H&SC Section 25356.1(f)].

Note: The drafting of the responses to comments received should be coordinated with the Public Participation Specialist. The Public Participation Specialist reviews technical responses to ensure that these responses are easily understandable by the community and to assure that the questions related to community issues are adequately addressed.

Required Public Participation activities:

- ◆ Prepare a written **response to comments** received during the public comment period, [42 U.S.C.A. § 9613 and 9617(b); 40 C.F.R. § 300.430(f)(3)(i)(F)];
- ◆ Prepare and place a **public notice** of the final selected remedy in a newspaper of general circulation, [NCP; 40 C.F.R. §300.430 (f) (6) and DTSC RAP Policy];
- ◆ Re-evaluate the need for further public participation, [40 C.F.R. §300.435 (c)

(1)]; and

- ◆ Consult with the Public Participation Specialist to determine if it is necessary to **update the Public Participation Plan**. [40 C.F.R. §300.435 (c) (1)].
- ◆ Comply with the National Contingency Plan.

(Note: While the California Superfund statute recommends that the Public Participation Plan be updated as necessary, while federal guidance recommends that the Plan be reviewed and revised just prior to the remedial design (if necessary). In general, a public participation plan should be updated when it appears there has been a significant change in the makeup, attitudes, concerns or other characteristic of a community. For most sites that proceed to cleanup in a short period of time, a revision will not be required, in all likelihood. For longer-term projects, a revision is often required.)

Design and Implementation

In the last phase of the remedial process, the cleanup remedy chosen in the final RAP is designed and implemented. Depending on the informational needs and concerns of the community, a variety of optional public participation activities may be performed.

Public Participation activities to be considered:

- ◆ Issue work notifications and/or **fact sheets**. The Public Participation Specialist and the Project Manager work together to determine what method of notification is appropriate and who should receive them. [40 C.F.R. Section 300.435(c)(3)];
- ◆ Hold a **community briefing**, as appropriate [40 C.F.R. § 300.435(c)(3)];
- ◆ Initiate other activities during this process to inform the community of progress at the site;
- ◆ Send a **final letter** at the completion of remediation or certification, describing the final remediation and any ongoing operations or maintenance. This letter is sent to all persons on the project mailing list who have requested to be informed of the project completion; and
- ◆ Comply with the National Contingency Plan.

Removal Action Workplan (RAW)

HSC Section 25356.1 (h) (1) exempts sites from the Remedial Action Plan (RAP) process if the removal action will cost less than \$1,000,000. Instead, a Removal Action Workplan (RAW) is prepared for these sites. RAWs can also be conducted as removal actions or interim remedial actions that are not the final remedy for the site.

Provisions within the law require that DTSC make the local community aware of the site and of the removal action, and that a **community profile** be prepared during the initial stages of the process. [HSC Section 25356.1(h)(1)]. A **Baseline Community Survey** [HSC Section 25358.7 (b)] shall be conducted on all listed sites and used to assess the level of community interest. The survey results are

used in conjunction with the community profile to assist the DTSC Public Participation Specialist, in coordination with the Project Manager, in deciding which public participation activities are necessary. The survey can also be structured to provide DTSC with valuable information such as language needs and the location of sensitive receptors, if another assessment tool is not planned. The Baseline Community Survey also serves to meet the legal requirement to make the local community aware of the site and the removal action.

Required Public Participation activities:

- ◆ Prepare a **Community Profile**;
- ◆ Conduct a **Baseline Community Survey** on listed sites [HSC Section 25358.7 (b)];
- ◆ Notify the community of the site and of any removal actions anticipated by DTSC. [HSC Section 25356.1(h) (1)]. The **fact sheet** or transmittal letter accompanied by the community survey fulfills this mandate; and
- ◆ Develop a site **mailing list** to notify the community.

Public Participation activities which may be required based on Community Profile and Baseline Community Survey results:

- ◆ Develop/Approve a **Public Participation Plan** (with community involvement) for high interest sites. [HSC Section 25358.7 (b)];
- ◆ Distribute a fact sheet to the site mailing list to describe the Draft RAW and announce the public comment period and public meeting (if held). [HSC Section 25358.7 (c) (2)];
- ◆ Hold a **30-day comment period** to solicit comments from the community, if the project has generated interest. Notify the community by placing a **public notice** advertisement in a newspaper of general circulation. Noticing is done concurrent with any required CEQA public notice so only one comment period is held. (Note: This is required to be consistent with the NCP for the purpose of cost recovery.);
- ◆ Hold a **community meeting** if there is community interest; and
- ◆ Prepare a written response to comments [HSC Section 25358.7 (e)].

When a project is submitted, and it is possible the removal action will cost more than \$1,000,000, DTSC must notify the proponent or responsible party that a Public Participation Plan is required. Should the DTSC later determine that the cost is under \$1,000,000, and the site meets the Removal Action Work Plan (RAW) criteria, the Public Participation Specialist, in consultation with the Project Manager will determine what public participation activities will be necessary.

Remedial Action Plan Equivalent

Section 25356.1 requires that all RAPs be prepared pursuant to Section 25350, the NCP, and be based upon all of the factors contained in Section 25356.1(d) (1) through (6). However, DTSC may waive these requirements if the RP prepares a

RAP “equivalent” document that meets all the requirements of Section 25356.1(h)(3). Total cost of the Remedial Action Plan Equivalent must be less than \$2 million.

Public Participation activities:

The public participation activities for a RAP Equivalent are the same as those listed previously in this chapter for a RAW.

Interim Remedial Measures/Removal Actions on NPL or Federal Properties

At any point during the site mitigation process on National Priorities List (NPL) or federal properties, it may be necessary for the protection of public health for DTSC to conduct or require a removal action. For NPL or federal properties the term “removal action” is used interchangeably with interim remedial measure. (Note: For facilities or sites that are California “listed” sites, the public participation requirements in the California Superfund law will also apply.)

Removal action is an action that is taken consistent with the final remedy, but is not the complete remediation of the site. For instance, it might be installation of a “pump and treat” system for groundwater, excavation and disposal of soil, or stabilization of the site to ensure there is no direct contact threat to the public.

On federal properties, or on sites listed on the NPL, a site evaluation and removal action schedules determine the public participation requirements. [NCP § 300.415(n) et. seq.].

Required Public Participation activities:

Requirements for All Removal Actions:

- ◆ Designate a **spokesperson**. (It is DTSC policy that the spokesperson for the media is the Information Officer and the spokesperson to the community is either the Public Participation Specialist or the Project Manager. The Project Manager and the Public Participation Specialist decide at the beginning of each project who will be the primary community spokesperson.);
- ◆ Coordinate **news releases**;
- ◆ **Notify affected citizens**.
- ◆ Establish an **administrative record** as defined in NCP 300.820; and
- ◆ **Notify the public** of the administrative record.

Requirements for an emergency removal action:

- ◆ Designate a **spokesperson**;
- ◆ **Notify affected citizens**; and
- ◆ Establish an **administrative record**.

Requirements for removal actions with a planning period of less than six months:

- ◆ Hold a **public comment period** of at least 30 days from the time the administrative record is made available for public inspection; and
- ◆ Issue a **responsiveness summary**, which must be placed in the administrative record.

Note: The drafting of the responsiveness summary should be coordinated with the Public Participation Specialist. The Public Participation Specialist will assist in reviewing technical responses to ensure that these responses are easily understandable to the community and to assure that the questions related to community issues are adequately addressed.

Requirements for removal actions expected to extend beyond 120 days (if these steps are not already done):

- ◆ Prepare a **community profile**, (or for CERCLA consistency prepare a public participation plan). Determine this on a site-specific basis in coordination with the Public Participation Specialist;
- ◆ Conduct **community interviews** and develop a **public participation plan**;
- ◆ Develop a **mailing list**;
- ◆ Issue **fact sheets** discussing the proposed actions; and
- ◆ Establish an **information repository**, and **notify the community**.

Requirements for removal actions with a planning period of at least six months:

- ◆ Conduct **community interviews** and develop a **public participation plan** before the completion of the Engineering Evaluation/Cost Analysis (EE/CA);
- ◆ Establish an **information repository** in a central location near the site, and notify the community that a repository exists;
- ◆ Publish a **notice of availability** and a description of the EE/CA in a major local newspaper of general circulation;
- ◆ Open a **public comment period** of at least 30 days following the completion of the Engineering Evaluation/Cost Analysis (a 15-day extension must be provided upon timely request); and
- ◆ Issue a **responsiveness summary**.

Note: Fact sheets, small group meetings, an information center and other public participation activities are encouraged for all types of removal actions.

DTSC public participation staff may play a support role when the U.S. Environmental Protection Agency (U.S. EPA) is the lead agency on a non-federal facility site. This may occur when the site is placed on the National Priorities List (NPL), when it is scheduled for listing, or when the U.S. EPA is conducting emergency or interim removal actions at a site.

If involved in these sites, DTSC public participation and technical staff should review and comment on all U.S. EPA public participation documents. DTSC can also provide support during other public participation activities such as community interviews, meetings and hearings. **A clear understanding of roles and responsibilities must be established at the very outset between the staff of both agencies to ensure that information being given to the community is consistent.**

When a site is on the NPL, but DTSC is lead for public participation activities, the Project Manager and Public Participation Specialist should refer to and follow guidelines within U.S. EPA's "[Community Relations in Superfund: A Handbook.](#)"

For a typical remedial investigation/feasibility study, U.S. EPA requirements are as follows:

- ◆ Conduct **community interviews** [40 C.F.R. § 300.430 (c)(2)(I)];
- ◆ Develop of a **Community Relations Plan** (i.e. public participation plan), [40 C.F.R. § 300.430(c)(2)(ii)(A-C)];
- ◆ Establish of an **Information Repository** [42 U.S.C.A. § 9617(d); 40 C.F.R. § 300.430(c) (2)(iii)];
- ◆ Notify the public of the availability of a **Technical Assistance Grant** (TAG) [40 C.F.R. § 300.430(c)(2)(iv)];
- ◆ Establish an **Administrative Record** [42 U.S.C.A. § 9613(k); 40 C.F.R. § 300.815)];
- ◆ Publish a **notice of availability** and brief analysis of the proposed plan in a major newspaper of general circulation;
- ◆ Make the **proposed plan**, and **supporting analysis** and information available in the administrative record;
- ◆ Provide a 30-day **public comment period** for the RI/FS and Proposed Plan [42 U.S.C.A. § 9617(a)(2); 40 C.F.R. § 300.430(f)(3)(1)(C)];
- ◆ Hold a **public meeting** [42 U.S.C.A. § 9613 & 117(a)(2); 40 C.F.R. § 300.430 (f)(3)(I)(D)];
- ◆ Provide a **meeting transcript** [42 U.S.C.A. § 9617(a)(2); 40 C.F.R. § 300.430(f)(3)(I)(E)]; and,
- ◆ **Publish in the Federal Register** a notice of proposed settlement of the Ad-

ministrative Order on Consent or Consent Decree at least 30 days before the agreement becomes final [42 U.S.C.A. § 9622(I); 40 C.F.R. § 300.430(c)(5)(I)];

- ◆ Issue **fact sheets** at key points throughout the site mitigation process.
-

Voluntary Cleanup Program

Historically, DTSC attempted to provide site cleanup oversight to the maximum number of sites having responsible parties or other sponsors who were cooperative and financially able to perform a cleanup according to DTSC standards. Because the number of sites overtaxed DTSC resources, DTSC limited itself to working on sites that presented the highest health and environmental risks. As a result, backlogged or low-threat sites were not immediately addressed. The situation hampered property owners who desired to develop the property or change the land use.

Objective

The objective of the Voluntary Cleanup Program (VCP) is to provide interested parties an alternative to the traditional cleanup program, with an expedited schedule to return property to productive use while protecting public health and the environment. Under the Voluntary Cleanup Program, oversight by DTSC is provided via written agreements between the proponent and DTSC, rather than by unilateral orders. The agreements are legally enforceable. In essence, project proponents (who may be responsible parties) secure staff resources by providing funding.

It is imperative that the project proponent has an understanding of the public participation requirements before the project is initiated.

Therefore, **the Public Participation Branch shall be consulted when agreements are being negotiated with the project proponent in order that the appropriate level of public participation resources is included in the agreement.** Experience has shown that site mitigation projects have a greater risk of becoming controversial if public participation activities are not initiated early and consistently.

As part of the application process for the Voluntary Cleanup Program, a community profile is required. This community profile must be submitted before the voluntary cleanup agreement is signed. The Public Participation Supervisor, on a case-by-case basis, may waive this requirement.

The Public Participation Specialist reviews the community profile and may complete the **Community Interest Evaluation Worksheet.**

Projected public participation costs and hours provided by the Public Participation Specialist and supervisor shall be included in the Voluntary Cleanup Agreement.

Types of Projects

Candidate sites for the Voluntary Cleanup Program may come from the backlogged, relatively low priority sites in DTSC's files. Others may be new sites previously unknown to DTSC. The majority of voluntary cleanup sites will come to DTSC's

attention at the time that DTSC oversight is requested. These projects are usually on a “fast track”, and this is taken into consideration when a public participation strategy is developed. In some cases, fieldwork may already be completed by the time the application is submitted.

Remediation Requirements

Projects under the Voluntary Cleanup Program are subject to the same final remediation goals and requirements as sites being remediated under orders, agreements or DTSC initiative. If the project proponent fails to perform under the conditions of the agreement, DTSC has the option to terminate the agreement. Under certain circumstances DTSC could subsequently pursue an enforcement action, or refer the site to another agency for appropriate action, depending on the nature of the release.

Public Participation activities:

Provided that the site is to undergo a RAP, the same general public participation activities required in the site mitigation process shall apply to all Voluntary Cleanup Program projects. However, certain provisions of Chapter 6.8 may not apply to the site, if it is not listed as per HSC Section 25356 (a) and (b). If a Voluntary Cleanup Program site is listed, DTSC must follow all public participation provisions within Chapter 6.8.

A Voluntary Cleanup Program site that entails a removal action follows public participation activities for a Removal Action Workplan (RAW). See RAW section of this chapter for public participation activities.

School Sites

School sites present unique challenges for DTSC’s public involvement program.

Legislation adopted and codified in 1999 requires school districts utilizing state funds for land acquisition and/or classroom construction to obtain from DTSC, certification that environmental factors on a proposed school site do not present a health risk to students. For many school sites, this is accomplished by an environmental assessment that evaluates past uses of the property and other information. Other sites proceed to a Preliminary Endangerment Assessment (PEA) before obtaining clearance from DTSC. If necessary, a district may choose to conduct a remedial investigation and continue through the site mitigation process. The law requires DTSC to oversee this process. Legislation signed by the Governor in September 2000, further defined the public participation process for the PEA phase of an environmental investigation for a potential school site. If it is determined that the site will undergo a remedial investigation, DTSC must conduct public participation requirements outlined in HSC Sections 25358.7 and 25358.7.1.

Public Participation activities during a school investigation:

Phase 1 Environmental Site Assessment:

No public participation activities are required; however, if there is community interest, DTSC or the school district in coordination with DTSC can provide interested persons with general information regarding the process. This can be accomplished by mailing a fact sheet or letter to interested parties.

Draft Preliminary Endangerment Assessment (PEA):

Prior to commencement of a PEA, the school district shall, with DTSC approval of the language, distribute a notice to residents and landowners in the immediate area of the proposed school site. The notice should include a description of the PEA process, any field work that may be involved in the process along with any dates and times associated with the field work, an approximate time line of the PEA, and appropriate contact numbers.

Once the draft PEA is sent to the school district, and the school district elects to proceed with the project, a public hearing is held by the school district to receive public comment on the CEQA document for the school and the draft PEA. If requested by the school district, DTSC may consider the following public participation activities:

- ◆ Assist the school district in developing a fact sheet or other informational notice describing the findings of the final draft PEA, for publication in a newspaper of general circulation at the commencement of the public comment period for the CEQA document. The hearing should be noticed in a manner consistent with the district's notification requirements;
- ◆ Consider providing support at the school district's public hearing, particularly in relation to a public discussion of the final draft PEA.

Based upon comments obtained at the public hearing, DTSC is required to approve or disapprove the final PEA within 30 days of the district's approval of the CEQA document.

Remedial Investigation

If DTSC determines from the PEA that a site must undergo a Remedial Investigation (and the school district still plans to proceed with future school construction), the following public participation activities are required:

- ◆ Conduct a **Baseline Community Survey** with the conclusion of the PEA, and prior to the Remedial Investigation.
 - ◆ Conduct required and recommended public participation activities outlined earlier in this chapter for each technical phase of the project, keeping in mind the special sensitivity of remediating school sites.
-

ERAP Projects

The “California Expedited Reform Act of 1994” [Chapter 6.85, HSC Section 25396] established the Expedited Remedial Action Program (ERAP). The provisions of this Chapter are applied to sites that are designated as part of a pilot program to expedite the remediation of contaminated properties.

A key incentive to the applicants for this voluntary program is that the site remedy is based on the permanent land use and removes a preference toward treatment or removal. A cleanup may rely on land use controls as an acceptable remedial measure. Site responsibility is delegated to the project proponent, which reduces DTSC’s need to oversee work. However, public participation remains central to this program since compliance with DTSC’s public participation manual is a statutory requirement.

A formal arbitration process is used in the ERAP to provide the opportunity for timely dispute resolution. The public and affected community can invoke arbitration to resolve disputes over site certification and the selected remedy, when the site’s responsible parties include orphan shares as defined in HSC Section 25396(m).

A party that wants to remediate a site using the ERAP submits an application to DTSC. After reviewing the application, DTSC determines if the project meets the statutory criteria for ERAP. The application is screened by DTSC and is then referred to the California Environmental Protection Agency, Site Designation Committee for selection to the ERAP. The public has an opportunity to speak at the Site Designation Committee hearing. Within 90 days of selection, DTSC meets with all potentially responsible persons, and any affected agencies to discuss the requirements for the Site Investigation and public participation. When appropriate, public meetings may be scheduled in conjunction with the site conference to review upcoming activities.

Within 60 days of a site being designated, a site conference is held to outline the requirements for conducting a Site Investigation and public participation.

During the site conference, the Public Participation Specialist and the Project Manager discuss the completed community profile and Community Interest Evaluation Worksheet with the project proponent to develop a public participation strategy based upon the level of community interest.

Site investigations are technically equivalent to the Remedial Investigation and Feasibility Study.

Public Participation activities:

- ◆ The project proponent must submit a **community profile** (or equivalent information approved by the Public Participation Specialist and Project Manager) with the Preliminary Endangerment Assessment (PEA). A Community Interest Evaluation Worksheet is also submitted by the project proponent. Public Partici-

pation staff must review and approve the community profile and Community Interest Evaluation Worksheet before DTSC makes a recommendation to the Site Designation Committee.

- ◆ Complete **community interviews** and a **Public Participation Plan**. The scope of the plan is discussed during the site conference. Many sites will not require an extensive Public Participation Plan, while others will require several interviews and a large amount of research. The Public Participation Specialist applies flexibility to this process;
- ◆ Establish an **information repository**;
- ◆ Develop **fact sheets** in a language appropriate for the affected community, and distribute appropriately;
- ◆ Develop a **mailing list** early in the process and update regularly;
- ◆ Conduct **meetings** as required throughout the project, depending on the level of community interest;
- ◆ Conduct other activities as necessary, depending upon the level of community interest; and
- ◆ Implement all public participation requirements for a draft Remedial Action Plan when the project reaches this phase, (refer to the RAP section of this chapter).

At the time DTSC proposes the allocation of liability for an ERAP site, provide written notice to Responsible Parties, the affected community, and the public at large. The notice must include information about the amount of orphan share costs that will be paid by the Site Remediation Trust Fund account. The notice must be coordinated with the public notice for final draft Remedial Action Plan.

Federal Facilities

Roles and Responsibilities

The successful development and implementation of public participation programs at federal facilities require the coordination of several entities. These entities include the federal facility and regulatory agencies such as DTSC, U.S. EPA, the Regional Water Quality Control Boards, local air boards, county health organizations, and other local agencies as well as environmental interest groups and the affected public. The policies and procedures described in this section of the manual are to ensure close coordination of these entities while conducting public participation activities in support of the Installation Restoration Program. Most of the federal facilities dealt with by DTSC are military facilities, therefore, in the following sections, the term “military” applies to facilities where the Department of Defense is responsible for the investigation and clean up. However, the same requirements apply to other federal facilities.

Military Facility Role

Under §300.5 of the National Contingency Plan (NCP), the military facility is the lead agency responsible for planning and implementing appropriate response

Military Facility Project Team

actions, including public participation. The military facility's public participation effort must be in accordance with CERCLA §§ 113 and 117, the California Health and Safety Code (HSC), Chapter 6.8, the NCP, a Federal Facility Agreement/Federal Facility Site Remediation Agreement (FFA/FFSRA) and other relevant California and U.S. EPA policies and guidance documents. Note: If the military facility is a "listed" site according to HSC Section 25356 (a) and (b), the public participation requirements outlined in HSC Section 25358.7 also apply and must be implemented.

The military facility is responsible to provide DTSC project staff, including the Public Participation Specialist, with necessary access to the military facility subject to any statutory and regulatory requirements necessary to protect national security or mission-essential activities. Access shall be allowed at reasonable times for the Public Participation Specialist to consult with the military facility and to oversee public participation activities. These may include project and public meetings, community interviews, and fieldwork. DTSC Public Participation Specialist coordinates with military facility staff for general access and provides the facility with reasonable notice to enable the facility to arrange for escorts if needed.

The Military Project Manager and public affairs staff or designated consultants work cooperatively with the DTSC Public Participation Specialist to ensure open communication and teamwork. All are responsible to contribute to an effective public participation process as required under CERCLA, the California Health and Safety Code, the NCP and relevant California and U.S. EPA policies and guidance documents. The designated military facility project team prepares draft documents including, but not limited to, a community relations plan, interview questions, a list of interviewees, mailing lists, fact sheets, and public notices. These documents are circulated and shared timely with the DTSC Public Participation Specialist for review, comment and final edits.

DTSC Role

DTSC Public Participation Specialist - The Public Participation Specialist shares and coordinates information with the military facility staff so that the public participation plan is modified, as needed to address emerging or changing community needs.

The DTSC Public Participation Specialist works cooperatively with military facilities to ensure open communication and teamwork. He/she provides direct input and oversight to ensure that the military facility's community relations program achieves the intent of state and federal requirements. The Public Participation Specialist identifies, plans, monitors and, if resources are available, initiates public participation activities as needed. The Public Participation Specialist reviews, comments on, and approves all military facility public participation materials including, but not limited to: the community profile, repository locations, community relations plan interview questions, list of interviewees, community relations plan and revision(s), mailing lists, fact sheets, public notices, and proposed plans.

When developing a public participation plan and associated materials, adequate review time must be allowed in the overall project schedule to enable the Public Participation Specialist to provide input and discuss DTSC's comments with military facility staff.

The DTSC Public Participation Specialist, with concurrence of the DTSC Project Manager, may periodically conduct random interviews, phone contacts, meeting evaluations and informal discussions with local community members and interest groups to evaluate the effectiveness of the military facility public participation program. The DTSC's Public Participation Specialist will determine:

- ◆ Does the Public Participation Plan identify and address the community's concerns?
- ◆ Is there an effective two-way flow of information between the military facility and the community?
- ◆ Are there emerging concerns or issues that may need to be addressed?

DTSC's Public Participation Specialist also:

- ◆ Advises the DTSC Project Manager of all public participation activities;
- ◆ Facilitates Restoration Advisory Board (RAB) and other public meetings, if requested by the facility or RAB co-chairs;
- ◆ Conducts rehearsals and debriefings for DTSC staff working on the project; and
- ◆ Reviews, comments on, and approves public participation materials.

DTSC Military Facilities Project Manager - The Project Manager oversees all technical activities conducted at the site/facility. In addition, the Project Manager is responsible to work cooperatively with military facility staff to ensure open communication and teamwork.

The Project Manager ensures that public participation requirements under CERCLA, RCRA, CEQA, the NCP, HWCL, and DTSC policy are fulfilled. Additionally, the Project Manager must be familiar with the required and optional public participation activities, and must be prepared to oversee and manage the public participation activities throughout the technical work phases of the site/facility if a public participation specialist is not available. It is important that the Project Manager consults regularly with the Public Participation Specialist and keeps the core project team apprised of project activities.

Interagency Coordination

The principal regulatory agencies overseeing military facility public participation activities are DTSC and U.S. EPA.

When a military facility is listed on the NPL, CERCLA §104 (a) (2) and the NCP provide that U.S. EPA is the lead regulatory agency. Accordingly, EPA's Office of

Community Involvement is responsible for providing regulatory oversight. All actions taken by the military facility, including conducting the public participation program, must be consistent with all U.S. EPA guidelines, rules, and policies (see U.S. EPA's [Community Relations in Superfund: A Handbook](#)).

For a military facility that is not listed on the NPL, CERCLA §104 (a) (4) provides that DTSC will serve as the lead regulatory agency for public participation policies and procedures oversight. DTSC strictly follows CERCLA public participation mandates for remediation at military facilities, as provided for in HSC § §25356.1, 25358.7.1 and 25159, and is modeled after U.S. EPA's CERCLA requirements.

The military facility is the lead agency for implementing the public participation provisions of the Installation Restoration Program. Working closely with regulators and the community helps to ensure success for the program.

Another federal agency that may play a key role at military facilities is the Agency for Toxic Substances and Disease Registry (ATSDR), of the U.S. Public Health Service. ATSDR work in a community includes formation of a Community Assistance Panel (CAP), and conducting and publishing the results of a Public Health Assessment (PHA) and the Public Health Study (PHS). ATSDR activities may raise community interest particularly if the PHA identifies significant public health hazards. ATSDR, military facility and regulatory agency coordination help ensure the studies and fact sheets are available to the CAP for review and comment, and to the public.

Interagency Agreements

Section 120 of CERCLA provides for negotiation and enforcement of interagency agreements between the military facilities, state or federal regulatory agencies. These agreements are known as Federal Facility Agreements (FFA) for EPA-lead, NPL sites or Federal Facility Site Remediation Agreements (FFSRA) for DTSC-lead, non-NPL sites. The FFA/FFSRA includes the basic requirements for public participation activities to be conducted at a military facility, including the development of a Public Participation Plan, also known as a Community Relations Plan.

The FFA/FFSRA is the plan to investigate and clean up contamination at a military facility. It establishes the procedures and enforceable schedules for specific response actions. The FFA/FFSRA specifies each party's responsibilities, provides a dispute resolution process, and provides Department of Defense (DOD) funding for regulatory oversight. The FFA/FFSRA becomes effective upon the signature of the negotiating parties. The FFA/FFSRA contains a list of documents, called "primary documents", that must be submitted to DTSC and/or U.S. EPA for review and comment. The Public Participation Plan is a primary document. The following activities are required when an FFA/FFSRA is signed:

- **Public Comment Period** — The military facility makes the FFA/FFSRA available to the local community for a public comment period of at least 45 days after it is signed. The military facility notifies the public of the availability of the signed FFA/FFSRA in local information repositories and the public comment period. The notification is published as a display advertisement in at least two

local newspapers of general circulation. Refer to page # for more information about display advertisements.

- **Public Meeting** — The military facility holds a public meeting if the written comments received during the public comment period indicate significant concern about the agreement. The military facility publishes a display advertisement in at least two local newspapers of general circulation two to four weeks prior to the meeting announcing the location, date, and time. The military facility should provide for an official transcript of the public meeting. Copies of the transcript are provided to all signatories of the FFA/FFSRA, placed in the Administrative Record and all information repositories for the site.
- **Response to Comments** — If public comments result in the need to revise the FFA/FFSRA, the relevant section(s) is renegotiated. Public comments are addressed in a written Response to Comments prepared by the military facility and reviewed by the parties to the agreement. Copies of the Response to Comments will be placed in the Administrative Record and all site information repositories.

Removal Action
Workplan (RAW)

Refer to RAW section of this chapter for description and public participation activities.

No Further
Remedial Action
Planned

At the conclusion of the Site Investigation (SI), it may be determined that No Further Remedial Action is Planned (NFRAP) for sites that do not pose a threat to public health and the environment. These sites are eliminated from the Installation Restoration Program. DTSC requires the military facility to notify the public of the disposition of all sites investigated during the Installation Restoration Program.

Public Participation activities:

- ◆ Issue a fact sheet or public notice to announce any NFRAP. Information concerning a NFRAP site can be included in public notices or fact sheets issued to inform the public of other IRP activities such as removal actions, Restoration Advisory Board (RAB) meetings, and remedial actions. A separate public notice or fact sheet is not required.

Technical Review
Committee

CERCLA Section 211 provides for the establishment of Technical Review Committees (TRC) at military facilities. The purpose of the TRC is to meet regularly to review and discuss actions planned or being taken to address contamination at military facility sites. The TRC provides interested parties with an opportunity to discuss and provide input to decisions about site activities.

Meetings are generally held quarterly although more frequent meetings may be needed based on site-specific interest or ongoing site activities. A TRC is made up of one or more community representatives from the affected community(ies), appropriate state and local officials, and representatives of the military facility, U.S. EPA, and DTSC.

Restoration Advisory Board

On September 9, 1993, the Department of Defense (DOD) issued guidance entitled “Fast Track Cleanup at Closing Installations,” to expedite the cleanup and reuse of closing military bases. A key element of the DOD guidance addresses improving public involvement opportunities in the base clean-up program, including establishment of a Restoration Advisory Board (RAB) at each closing or realigning base.

A RAB provides a broad focus for community input and participation in all aspects of base cleanup and conversion. A TRC that exists previous to formation of a RAB at a closing base where property is transferred to the community may be converted to a RAB.

A RAB brings together members who represent the diverse interests of the local community. The RAB ensures that all stakeholders have a voice and can actively participate in the review of base clean-up documents and plans. Stakeholders provide input in the decision-making process in an effort to participate in the cleanup and conversion of the base. A RAB supplements the CERCLA-required public participation process, but does not replace it.

DTSC recommends that military facilities prepare for RAB meetings by holding rehearsals. The DTSC Public Participation Specialist may be available to assist with these rehearsals, as workload priorities allow.

Emergency Response/Rapid Program Overview

The Emergency Response Program

When an emergency incident occurs at a facility that handles hazardous materials/waste, DTSC may be asked by local agencies and/or other state agencies to provide technical assistance. Sometimes, because of the proximity of these facilities to a community, public participation efforts are also necessary. Because of DTSC’s experience and expertise, the Public Participation Branch may become involved during and after the incident.

The RAPID Program

A second emergency incident program under which the Public Participation Branch may become involved is the Railroad Accident Prevention and Immediate Deployment (RAPID) Program. This program creates a RAPID Force that consists of State departments and agencies. The RAPID Program was formed to assist local agencies at large-scale hazardous material releases resulting from surface transportation accidents. The Public Utility Code (PUC) § 7718(b) (statutes of 1991) required DTSC to develop a RAPID Plan to establish how the State agencies respond to assist local agencies and work cooperatively to mitigate a hazardous spill.

Mission of the RAPID Program

The mission of the RAPID Program is to provide immediate, on site technical assistance in an organized and predictable manner to State and local agencies at surface transportation incidents involving large-scale releases of hazardous materials, where the resources of multiple State agencies are needed and/or where

multiple State agencies have statutory responsibilities in order to minimize the potential damage to the public health and safety, property and environment.

Public Participation Objective during an Emergency Incident

The objective of public participation during any type of emergency incident is to open and maintain two-way communications between the State agencies and communities involved in the incident. **Close coordination between the project staff and the Public Participation Specialist is crucial to ensure that the proper communication strategies are implemented.**

Responsibilities

Public Participation Specialist — The public participation function in a RAPID (or emergency) incident is within the Public Information Unit, which reports directly to the Incident Commander. The Public Participation Specialist's primary mission is to establish communication links with key community leaders, groups and affected individuals. Using a variety of communication tools such as community meetings, informational flyers, fact sheets, and individual contacts, the Public Participation Specialist keeps the community up to date on the incident, allowing the community to express needs, health concerns, etc. During a RAPID exercise, the Public Participation Specialist may also serve as the spokesperson for the incident commander since the media is often the primary—and sometimes sole—source of information for many in the community during an emergency. This is a variation from the typical responsibilities of the Public Participation Specialist. The Public Participation Specialist should consult with his/her supervisor before reporting to the field.

Due to their proximity to the affected area and probable familiarity with the community, a regional Public Participation Specialist is likely to be among the first responders to an emergency incident. The regional Public Participation Specialist maintains contact with his/her supervisor, who in turn maintains contact with the Public Participation Unit in Headquarters. If RAPID is invoked, headquarters and regional public participation staff evaluate the situation to determine the need for headquarters' on-scene participation. This decision may also be made in coordination with technical staff present at the scene. If headquarters staff is dispatched, one Public Participation Specialist is designated lead, and coordinates activities and shares information with other Public Participation Specialists and technical staff. The lead Public Participation Specialist at the scene coordinates efforts with the Public Information Officer (if one has been named), the Incident Commander, and the RAPID team leader, if RAPID has been invoked.

Generally, the Public Participation Specialist sent to the scene goes to the evacuation center, or a center where the community is likely to congregate. Public participation staff very rarely goes on the site or cross into the exclusion zone. If it is necessary to go on the site, the Public Participation Specialist must have proper health and safety training and equipment, must have sufficient reason for entering the restricted zone, and supervisor approval.

Technical staff — During an emergency incident, most technical staff is involved in emergency measures to protect human health and the environment. Once the

immediate threat is over, however, technical staff is utilized to assist in answering questions and developing information for flyers and fact sheets. Technical staff is also utilized at public meetings, open houses, and any hearings that are held in response to the incident.

Toxicologists — One of the most pressing public concerns in an emergency incident is the long- and short-term health effects. Toxicologists play a key role in the development of flyers and fact sheets, and are available to answer questions from the community. Toxicologists work with Public Participation Specialists to prepare for and participate in community outreach efforts such as community meetings.

Public Participation activities during emergency incidents:

Informal Assessment

During either a RAPID or emergency response incident, the Public Participation Specialist utilizes the following set of general guidelines. Upon entering the community, the Public Participation Specialist, with the assistance from on-scene technical staff, makes an informal assessment of community needs. The following is a suggested list of questions to be answered in making that assessment:

- ◆ Who is affected?
- ◆ How many are affected?
- ◆ What kinds of effects are seen?
- ◆ What are the community's concerns about the release?
- ◆ Are there background factors that affect community perceptions (i.e., previous releases, proximity to hazardous waste sites or facilities, etc.)?
- ◆ Who are the community leaders?
- ◆ Where can people congregate for information?
- ◆ What information channels already exist?
- ◆ What are the language(s), literacy level and cultural background of the community?
- ◆ Are translators, interpreters or others who can assist in the communication of information needed?
- ◆ Are there special needs for children, the elderly, physically challenged, or those with visual or hearing impairments? Are there facilities in existence already, which can assist?
- ◆ Is information already reaching the community, and is it sufficient?
- ◆ Is the information contradictory?

The informal assessment will identify:

- ◆ Where to Establish an Information Center — If one does not already exist, establish an information center where groups and individuals can receive up-

dates on the incident. This could be a high school, an evacuation center, a police or fire station, or the Incident Command Center.

- ◆ Need for reconnaissance efforts — Public participation staff work with local health officials to identify community concerns regarding routes of exposure which help guide health advisories, sampling strategies, the need for a human health exposure assessment and epidemiology. In addition, these interviews may also be a basis for determining if the assistance of mental health professionals is needed.
- ◆ Need for Fact Sheets – Develop and distributed fact sheets needed pertaining to the incident with assistance and oversight of the Public Participation Specialist. Technical staff and representatives from the Office of the Science Advisor will assist in the writing of fact sheets. Coordinate the production and distribution of the fact sheet with other agencies as appropriate. The responsible party may be asked to provide a mailing list and/or distribute the fact sheet.
- ◆ The fact sheets address community concerns and include the State’s understanding of the incident, the chemical hazards and risks associated with the incident, the ongoing or proposed removal or remediation activities, a glossary of technical terms, meeting announcements, and where more information can be obtained. Fact sheets must be in a language understandable by the affected community. Make fact sheets available at the information center.
- ◆ Need to provide technical expertise — The assessment also identifies what technical information the community needs. Public participation staff works with technical experts to answer questions from the affected community and to local officials.
- ◆ Need for public meetings and small group meetings — The assessment identifies the need for these meetings, as well as the need for appropriate speakers, interpreters and meeting places. During the initial stages of the incident, large meetings may be impossible; however, efforts should be made to share as much information as possible with small, affected groups. Large public meetings should be held when the need arises, usually once the initial stages of the emergency have passed. However, if public demand is high, a large group meeting may be necessary during the initial stages of the emergency incident.
- ◆ Need for formal community assessment — If the incident appears to have long-term involvement by DTSC, it is recommended that the public participation staff, with assistance from technical experts, develop a formal community assessment, and consider development of a formal Public Participation Plan.

Site Mitigation Program Technical Milestones and Public Participation Activities

Public Participation Activities	Site Discovery	Preliminary Endangerment Assessment (PEA)	Remedial Investigation & Feasibility Study	Draft Remedial Action Plan	Final Remedial Action Plan	Design & Implementation	Removal Action Workplan
Public Participation File		0	0				
Phone Log		0	0	0	0	0	0
Community Profile		X	X				X
Community Survey		0	X				
Public Participation Plan			X				0
Mailing List/update		0	X	X	X		X
Information Repository(ies)/update	0	X	X	X	X	X	
Inform Other Agencies	X	X	X	X	0	0	X
Brief Local Officials	0	0	0	0	0	0	0
Information Letter/Flyer	0	0	0	0	0	0	0
Fact Sheet	0	0	X	X	0	0	X
Public Notice		0	0	X	0		0
30-Day Public Comment Period				X			0
Community Meeting		0	0	X		0	X
Small Group Meeting		0	0	0	0	0	0
Briefing		0	0	0	0	0	0
Workshop		0	0	0	0	0	0
Open House		0	0	0	0	0	0
Community Advisory Groups		0	0*	0*	0*	0*	0*
Restoration Advisory Boards	0	0	0	0	0	0	0
Technical Review Committee Mtg		0	0	0	0	0	0
Response to Comments				X			0
Letter of Completion						0	0
Update Public Participation Plan				0	0	0	0
Monitor Community Interest		0	X	X	X	X	X

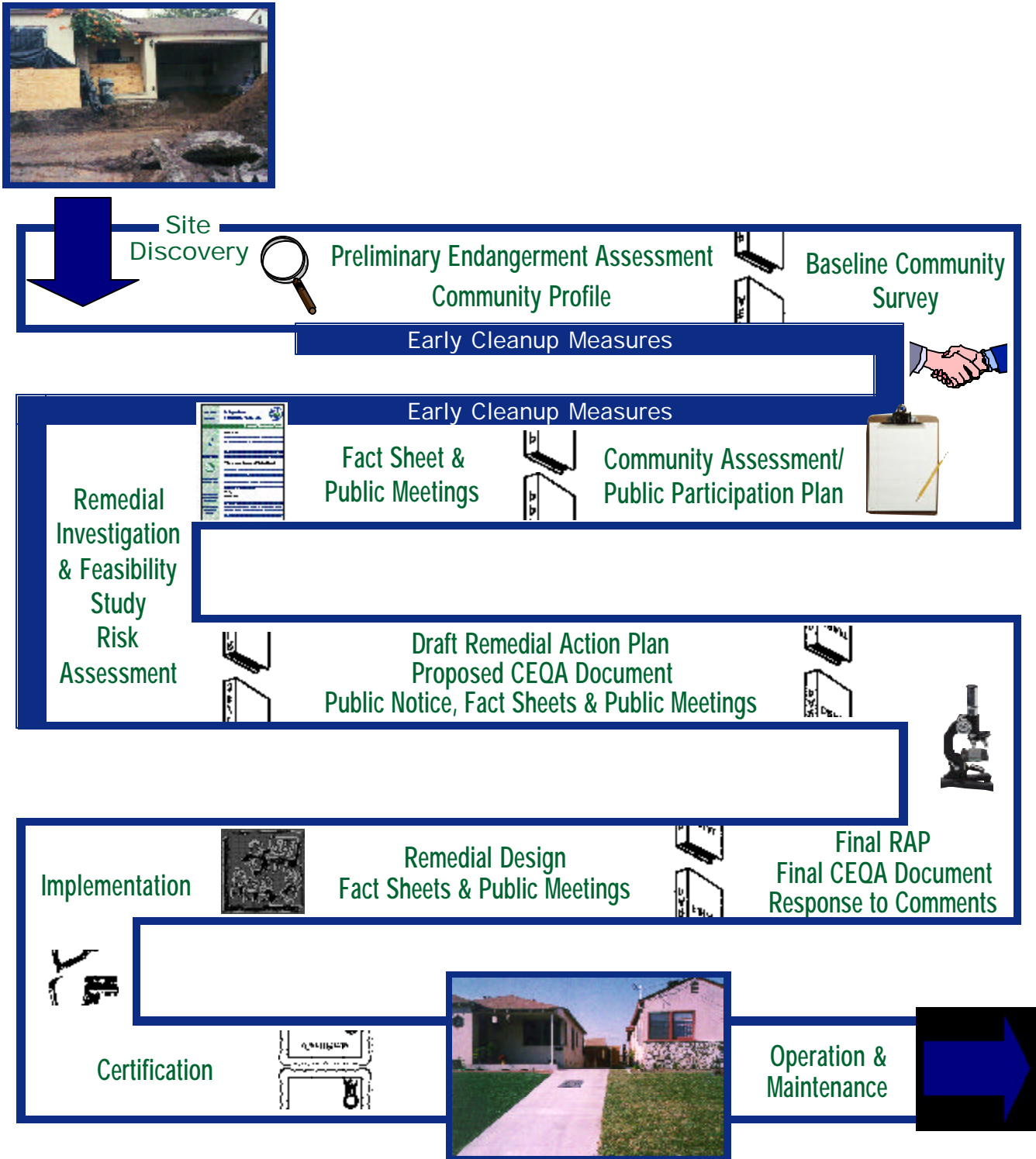
o* = CAG is required if community requests one

National Priority List (NPL) Sites Only

Public Participation Activities	Site Discovery	Preliminary Endangerment Assessment (PEA)	Remedial Investigation & Feasibility Study	Draft Remedial Action Plan	Final Remedial Action Plan	Design & Implementation	Interim Remedial Measures/Removal Action
Establish/Update Administrative Record			X	X	X	X	X
Notice of Availability of Administrative Record		X	X	X			
Post Public Notice at Site		0		X			0
Paid Radio Ad				0			
Public Service Announcement				0			0
Notice of Availability of TAG			X				

Legend: X = Required 0 = Optional

Site Mitigation Process



Removal Action Workplan Process

