

TIERED PERMITTING PHASE I ENVIRONMENTAL
ASSESSMENT CHECKLIST

INSTRUCTIONS

Purpose of this Checklist: This environmental assessment checklist was developed by the Department of Toxic Substances Control (DTSC) to satisfy Health and Safety Code (HSC), Division 20, section 25200.14. It has been written for owners and operators (owner/operator) of facilities applying for or operating under the Permit-by-Rule (PBR) or Conditional Authorization (CA) permit tiers. The Checklist will assist these owners or operators in identifying potentially contaminated areas of their facilities which require further investigation or remediation. This Checklist has been written to assist the owner/operator of the business operating under PBR or CA (facility) to (1) evaluate the property on which the facility is located for areas of possible or documented contamination such as spill locations, leaking equipment, and regulated or non-regulated hazardous or nonhazardous waste management units and (2) determine if the documented or potential contamination requires further investigation to determine its existence, nature, or extent. After completing an examination of the facility's property, the owner/operator certifies that the facility does or does not require further investigation. The questions in this Checklist have been constructed to lead the facility owner/operator through a series of steps to identify all documented and potential releases. The completed Checklist will then be used by the DTSC to confirm that further investigation will or will not be necessary to determine the existence or extent of contamination on the facility.

A facility would be certified as requiring further investigation in several situations. If the owner or operator is aware of a past release that was more than a very small quantity, the owner or operator would certify that the facility required further investigation unless that past release had been investigated and is being remediated or has been certified clean by an appropriate agency. If the assessment reveals the presence of old waste management units such as landfilled material or old surface impoundments that had not been certified as properly closed by an appropriate agency, the facility would be certified as needing further investigation. If the assessment reveals areas where hazardous materials have been used where those areas appear stained or have chemical odors, the facility would be certified as needing further investigation. Please note that this is not a complete list of those situations that would require further investigation.

Previously Completed Assessments and Exemptions: HSC, section 25200.14, the statute establishing the Phase I Environmental Assessment, contains the provisions for a facility for completing the assessment by using previously completed assessments, and an exemption from remediating contamination under DTSC oversight:

1. Use of Previous Assessments: A previously completed assessment may be used to comply with

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the requirements of HSC, section 25200.14, if it meets the following criteria:

- a. The entire property under the control of the owner/operator of the facility was assessed; and
- b. The assessment was completed no earlier than three (3) years before the date that the facility is required to submit a Phase 1 Environmental Assessment; and
- c. The alternative assessment is supplemented by any relevant updated information reasonably available to the owner/operator describing any releases since the previous assessment was completed; and
- d. An addendum to the investigation is attached, if necessary, to comply with requirements of this Checklist which were not addressed by the substitute assessment.

NOTE: A prior assessment that does not meet the above criteria may still be used as part of a complete assessment for the areas and time period covered by the previous assessment.

Orders Qualifying for full or partial exemption: Facilities subject to the following orders are not required to complete a Phase I Environmental Assessment for portions of a facility that are subject to specified orders by State and federal environmental agencies. These orders are summarized in HSC, section 25200.14. The pertinent part is repeated below:

"25200.14. (a)...

(h)(i)The department shall not require a phase I environmental assessment pursuant to this section for those portions of a facility subject to a corrective action order issued pursuant to Section 25187, a cleanup and abatement order issued pursuant to Section 13304 of the Water Code, or a corrective action required under subsection (u) of Section 6294 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code."

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2. Other Agency Oversight: A facility is exempt from the followup work specified in HSC, section 25200.14(b) if that facility is being remediated in compliance with an order from a Regional Water Quality Control Board or other State or federal environmental enforcement agency. This followup work results from a Phase I Environmental Assessment in the case that the Phase I Environmental Assessment identifies a need for further investigation to determine the existence, nature, and extent of a release. The following points must be considered:

- a. This exemption applies only to the followup work that results from an assessment. It is not an exemption from completing a Phase I Environmental Assessment. However, the property assessment that triggered the order may be used to substitute for the Phase I Environmental Assessment to the extent that it meets the criteria of 1. above.
- b. The exemption applies only to areas addressed by the order. Any portions of the property that are not subject to remediation under the order are not covered by the exemption. The full process must be completed for these areas.
- c. The exemption applies only to work addressed by the order. For example, if a cleanup order only addresses air dispersion of contamination, the exemption only applies to the issue of air dispersion and not to soil and groundwater remediation.

3. Claiming Exemption: To claim exemption from all or part of the assessment or the followup work, please follow this procedure:

- a. On the *Signature and Certification Page*, check the space provided for claiming exemption. Write a short explanation of what you are exempt from (ie: Completing the Checklist and/or the followup work).
- b. Attach documentary evidence of exemption to the Checklist. Also attach information regarding releases in the period since any substitute study was completed. This information can consist of Area of Concern Data Sheets for each release since the substitute study was completed, a signed certification that there have been no releases since the substitute study was completed, or other documents that satisfy the intent of the Checklist (to determine if there have been/may have been releases which require further investigation to determine their existence, nature, and/or extent). Regardless of whatever type of documentary evidence is supplied, please include a clear narrative description of what you are claiming exemption for and the scope of the substitute assessment and/or remedial order. Documentary evidence can consist of:
 - The summary and/or conclusions page of a study that will substitute for all or part of the

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- A full text copy of the study or order that substitutes for the completion of the assessment and/or the followup work.
- Letters from the author of the study or the agency conducting a study or issuing an order which set forth the conclusions of the study and/or the terms and scope of the order.

Methodology: The following information may be useful in completing this Checklist: facility records, historical information, site maps, and a walk-through-inspection. Historical information concerning the property can be obtained from the following: historical societies, property tax records, fire insurance maps, recorded land title records, local street directories, building/planning DTSC records, aerial photographs, zoning/land use records, and the personal recollection of longtime employees, neighbors, and past owners and operators. Information on sources for aerial photos can be obtained from local telephone directories and the Earth Sciences Information Center in Los Angeles, Menlo Park, and San Francisco.

The facility property must be investigated carefully. Signs of documented and potential releases include but are not limited to: unusual stains around drains, on floors, walls, and surface soil; unusual odors originating from drains, floors, or surface soil; and vegetation that appears unhealthy or dying without a reasonable explanation (ie: lack of water). Drains, piping around tanks and process equipment, and older aboveground or underground storage tanks without secondary containment are some of the possible sources of releases and should be checked carefully. Any signs of possible releases should be more closely evaluated to determine if further investigation, such as sampling and chemical analysis, may be required.

Due Diligence: HSC, section 25200.14(d) states that sampling and analysis are not required as part of this assessment. Additionally, HSC, section 25200.14(a) states that the checklist will be based on an owner/operator's "...reasonably available knowledge of the facility...".

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Records Retention: A business must retain all documents pertaining to the Phase I Environmental Assessment of their property (and all other documents pertaining to the permitted hazardous waste treatment units). These documents include all the information used by the facility to arrive at the conclusion they reach in completing this assessment and include all documentation pertaining to any remediation of contamination. Records retention in the PBR and CA tiers is required as follows:

- 1. Permit by Rule:** Title 22, California Code of Regulations (Cal. Code or Regs.), section 67450.3(c)(8)(J) requires that these documents be maintained at the facility as long as the treatment unit operates under PBR. This section also requires that specified documents, including those pertaining to the corrective action program, be made available for inspection by any federal, state, or local environmental enforcement agency and be sent to the DTSC when requested.
- 2. Conditional Authorization:** HSC, section 25200.3(c)(7) requires that all records pertaining to a grant of CA, including all documents pertaining to the Phase I Environmental Assessment of their property or any remedial activities at the facility, be retained for five (5) years and be made available upon inspection.

Requirements for Followup Work: Both HSC, sections 25200.3 and 25200.14 and the DTSC's Permit by Rule regulations contain requirements for followup for a Phase I Environmental Assessment where a need for further investigation is identified.

- 1. Section 25200.14:** This section requires followup work as follows:

"25200.14

(a)...

(e)(1) If the results of the phase I environmental assessment conducted pursuant to subdivision (b) indicate that further investigation is needed in order to determine the existence or extent of a release from a solid waste management unit or hazardous waste management unit, the facility shall submit a schedule, within 90 days of submission of the phase I environmental assessment to the department, for that further investigation to the department. If the department determines, based upon a review of the phase I environmental assessment or other site specific information in its possession, that further investigation is needed to determine the existence or extent of a release from a solid waste management unit or hazardous waste management unit, in addition to any further action proposed by the owner or operator of the facility, or determines that a different

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schedule is necessary to prevent harm to human health and safety or to the environment, the department shall inform the owner or operator of the facility of this determination and shall set a reasonable time period in which to accomplish that further investigation...."

2. **Permit by Rule:** Both statute (HSC, section 25200.14) and regulation (Title 22, Cal. Code of Regs., section 67450.7) contain rules for PBR facilities that report that further investigation is required.
3. **Conditional Authorization:** Both HSC, sections 25200.14 and 25200.3(c)(3) contain corrective action rules applicable to businesses operating under a Grant of Conditional Authorization that have reported that further investigation is required.

COMPLETING THE CHECKLIST

Overview: This Checklist sets forth a process which guides the user through the process of evaluating their facility for contamination. By completing each section in sequence, each potentially contaminated area will be identified and addressed in the walk-through inspection.

The Checklist has been arranged as follows:

Section I: Facility Information and Signature/Certification page: This section is used to collect demographic information on the facility and its ownership. The signature and certification page sets forth the conclusions of the assessment by stating that further investigation is or is not necessary. Space is also available to claim exemption from completion of a Phase I Environmental Assessment and explain that exemption. When signing this page, the signatory certifies that the Checklist has been completed honestly and completely, within the knowledge and experience of the signatory. This page must be returned to the DTSC as the results of the assessment.

Section II: Facility History: This section collects information regarding past activities, investigations, accidents, or uses that may indicate the presence of contamination. This section is used to highlight areas of the facility that may require close attention during the facility walk-through inspection. This section is completed for the use of the investigator assessing the facility and need not be sent to the DTSC.

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Section III: Facility Walk-Through-Inspection - Specific Areas: This section consists of a chart on which the assessor lists all the areas of the facility where hazardous materials are handled, used, stored, or treated. The chart serves as a comprehensive listing of each area. The results of the walk-through inspection in each area. This section is completed for the use of the investigator assessing the facility and need not be sent to the DTSC.

Section IV: Facility Walk-Through-Inspection - Other Areas: This section is used to aid in the walk-through inspection of those areas not covered in *Section IV*. It asks questions regarding various conditions that may indicate the presence of contamination such as abandoned landfills, spill sites, etc. This section is completed for the use of the investigator assessing the facility and need not be sent to the DTSC.

Area of Concern Data Sheet: This Data Sheet is used to report releases and suspected releases found during the walk-through inspection in *Section IV and V*. If any releases or suspected releases are found during the investigation and walk-through inspection of the facility, these data sheets are used to report those releases or suspected releases to the DTSC.

Detailed Instructions:

1. Complete each section according to instructions written in that section. For questions requesting a YES/NO answer, if the answer is not known, then enter "unknown". A YES answer to questions in *Sections II through IV* does not necessarily indicate that contamination exists but that the area or incident involving the question should be investigated more closely when the Facility Walk-Through-Inspection is conducted.
2. Fill in the appropriate identifying information for the facility in *Section I*. The DTSC will send correspondence to the mailing address listed in *Section I Item 6* unless another address is entered in *Section I Item 7*. This checklist page must be sent to the DTSC.
3. *Section II* should be completed by the facility to reveal past potential and actual releases and to reveal areas that may have been contaminated by past activities. These areas should be carefully examined during the facility walk-through inspection for evidence of contamination. This page is completed for use by the facility and need not be sent to the DTSC.
4. *Section III* is used to establish a list of areas where hazardous materials could possibly be released. The chart is organized into loading/unloading, hazardous material use areas, etc. List each area where hazardous materials are stored, used, etc on the chart. These areas are then

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- examined carefully during the walk-through inspection. The results of the inspection for each area are recorded on the chart. If additional spaces are needed, make as many copies as needed and number the pages. Record each area on the sheet; it is not necessary to list individual machines on the chart unless the assessor decides to list them in that manner. Similar process units may be grouped to avoid excess paperwork, but must be individually and completely inspected. This page is completed for use by the facility and need not be sent to the DTSC.
5. *Section IV* guides the assessor through a walk-through inspection of those areas of the facility not examined while completing *section III*. It examines areas of the facility that are not currently used for hazardous materials, but may have been contaminated by past practices. This page is completed for use by the facility and need not be sent to the DTSC.
 6. Complete a *Area of Concern Data Sheet* for each release or suspected release found during the facility walk-through inspection (*sections III and IV*). Attach as many *Area of Concern Data sheets* as necessary to document each release and suspected release. Note that you need not complete an *Area of Concern Data Sheet* for releases that have been remediated under the oversight of a federal or state agency with oversight authority over site remediations. Additionally, you need not complete an *Area of Concern Data Sheet* for releases from underground storage tanks if the releases have been remediated and certified clean by a local agency delegated implementation of the Underground Storage Tank program.
 7. Sign and date the *Signature and Certification Page* on the reverse side of *Section I*. This page must be signed by a company official with operational control over the facility. For instance, this page could be signed by the facility manager, the CEO or the Vice President in charge of operations but not the safety engineer or the plating area foreman. For further information regarding signatories to permit actions, see Title 22, Cal. Code of Regs, section 66270.11.

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8. Send *Section I* with a correctly signed *Signature and Certification Page* and any completed *Area of Concern Data Sheets* to:

Department of Toxic Substances Control
State Regulatory Programs Division
5796 Corporate Avenue
Cypress, California 90630-4732
Attention: Yvonne Sanchez

9. If the space provided in the Checklist is insufficient to record complete information or if the facility desires to attach information not requested but pertinent to the purpose of the assessment, attach that information to the checklist and, if appropriate, refer to the section and item number. For instance, a summary of a previously completed assessment can be attached as "Supplemental material for *Section II, Item 1*".

Further Investigation: If the facility owner/operator determines that further investigation is required to determine the existence, nature, or extent of a release, the facility owner/operator must provide a schedule for that further investigation to the DTSC. This schedule must be provided by the facility owner/operator the DTSC within 90 days of the submittal of the Phase I Environmental Assessment Checklist. If the DTSC determines, based upon a review of the Checklist, that further investigation is needed to determine the existence or extent of a release, the facility may be required to follow a different schedule and/or conduct further site assessment or sampling (HSC, section 25200.14(e)).

DEFINITIONS

To understand the legal requirement for facilities to assess their property and, if necessary, carry out a corrective action program to address contamination, it is important to understand definitions of terms important to the legal requirement to assess property. Important definitions are set forth below:

Facility (HSC, section 25200.10(c))

"facility" means the entire site that is under the control of the owner or operator seeking a hazardous waste facilities permit."

Hazardous Waste (Title 22, Cal. Code of Regs., section 66260.10)

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"Hazardous waste" means a hazardous waste as defined in section 66261.3 of this division.

"Hazardous waste" includes extremely hazardous waste, acutely hazardous waste, RCRA hazardous waste, non-RCRA hazardous waste and special waste."

Owner (Title 22, Cal. Code of Regs., sections 66260.10, 66270.11)

"Owner" means the person who owns a facility or part of a facility. For a municipality or county, either a principal executive officer or ranking elected official, or their designee, may be considered the facility owner or operator. A "principal executive officer" means the chief executive officer of the agency submitting the application or notification, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. A "ranking elected official" may be the president, chairperson, or member of the agency's governing body, who is authorized to sign documents on behalf of the governing body."

Owner or operator (Title 22, Cal. Code of Regs., section 66260.10)

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under chapter 6.5 commencing with section 25100, division 20, Health and Safety Code."

Release (Title 22, Cal. Code of Regs., section 66260.10)

"Release" means:

(a) Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

(b) "Release" does not include any of the following:

(1) Any release which results in exposure to persons solely within a workplace, with respect to a claim such exposed persons may assert against their employer.

(2) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

(3) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 2210 of Title 42 of the United States Code or, for the purposes of section 104 of the federal act (42 U.S.C. 9604) or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under section 7912(a)(1) or 7942(a) of Title 42 of the United States Code, which sections are a part of the Uranium Mill Tailings Radiation Control Act of 1978.

(4) The normal application of fertilizer, plant growth regulants and pesticides."

Remediation (Not a regulatory definition, included for information)

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"Remediation" means addressing site contamination by removing it, treating it in place, or another method.

Solid Waste Management Unit (Title 22, Cal. Code of Regs., section 66260.10)

"Solid Waste Management Unit" means any unit at a hazardous waste facility from which hazardous constituents might migrate, irrespective of whether the units were intended for the management of wastes, including but not limited to: containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators and underground injection wells."

IMPORTANT NOTE:

The statute requires corrective action for releases from "solid waste management units" at facilities treating hazardous waste under PBR and CA. A "Solid waste management unit" (SWMU) is any location on the facility that may have or has contamination. Therefore, each facility is required to examine all SWMU's at the facility for contamination.