

Implementation Guide

Description

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The Site Designation Process Under the Unified Agency Review of Hazardous Material Release Sites:
[Health and Safety Code, Division 20, Chapter 6.65](#)

The Site Designation Committee has developed an **Implementation Guide** to provide information on the Site Designation process, outline steps for the application process for potential applicants, and provide information for Administering and Support Agencies. Following are the headings of topics discussed in the Implementation Guide. Click on the heading for the subject you are interested in or read the document from beginning to end to get an overview of the process.

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A. Introduction And Overview

Assembly Bill (AB) 2061 (Umburg) amended the Health and Safety Code (HSC) by adding Chapter 6.65 to Division 20. This law took effect on January 1, 1994 and was amended by Senate Bill (SB) 923 of 1994, Senate Bill 1425 of 1996, and SB 667 of 2000. The purpose of the Site Designation process is to allow a Responsible Party who agrees to carry out a site investigation and remedial action to request

the Site Designation Committee (Committee) within the California Environmental Protection Agency (CalEPA) to designate a single state or local agency (Administering Agency) to oversee the site investigation and remedial action. (As discussed under “Statutory Definitions,” a Responsible Party as defined, in part, in the Health and Safety Code Chapter 6.65 section 25260 is “any person” who agrees to carry out a site investigation and remedial action at a hazardous materials release site.)

The Committee consists of six members representing CalEPA, the Air Resources Board, the Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, and the Department of Fish and Game.

This Implementation Guide provides a discussion of the Site Designation process and Administering Agency and Support Agency responsibilities. It includes guidance for coordinating regulatory activities necessary during the various phases of site investigation, remediation, and following the determination that an approved remedy has been accomplished, issuance of a Certificate of Completion.

Role of Administering Agency

The Administering Agency for a “hazardous materials release site” is authorized to supervise all aspects of site cleanup. For that purpose the Administering Agency is granted sole jurisdiction over all activities necessary to respond to the hazardous materials release. [HSC, section 25264 (a)] The Administering Agency administers all state and local laws, ordinances, regulations, and standards that are applicable to, and govern the site investigation and remedial action at the site. [HSC, section 25264(a)] The investigation and remedial action at a hazardous materials release site overseen by an Administering Agency will be implemented consistent with all applicable existing grants and delegations of federal authority. The Administering Agency also issues required permits and must ensure that required procedures are followed and adequate permit requirements and conditions are imposed. The Administering Agency must consult with other “Appropriate Agencies” or “Support Agencies” when issuing permits or other forms of authorization not normally within its own jurisdiction. [HSC, section 25264(a)(3)] This includes maintaining active communication between agencies that would normally be involved in the process and providing consistency in applying these agencies’ statutory and regulatory requirements.

If the Administering Agency would like to formally request technical support from other agencies, the Administering Agency may request that the Committee convene an Advisory Team. Once a cleanup has been completed to the satisfaction of the Administering Agency, a Certificate of Completion is issued by the Administering Agency. Prior to issuing the certification, the Administering Agency should provide a 60-day notice to interested agencies and parties. This certificate constitutes a determination that the remedial action has complied with applicable state and local requirements. No state or local agency may take any further enforcement action related to a certified site, except under certain circumstances specified in HSC section 25264(c).

Role of Support Agencies

Support Agencies are those agencies that have not been designated as the Administering Agency by the Site Designation Committee, but have a role in the investigation and remedial action as specified in HSC Chapter 6.65. The Administering Agency must consult with appropriate Support Agencies before issuing permits or other authorizations necessary for activities relating to investigation and remedial

action. Support agencies should specify in writing to the Administering Agency all applicable laws, standards, and permit requirements for the investigation and cleanup. Support Agencies also participate in consultative work group meetings or may formally request an Advisory Team to provide guidance to the Administering Agency in overseeing the site investigation and remedial action.

Any agency may request the Committee to convene an Advisory Team and may petition the Committee if it believes that relevant laws, ordinances, regulations and standards are not being properly implemented by the Administering Agency. Such petitions may result in rescinding the original Administering Agency designation.

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B. Early Determination Of Agency Requirements

In an effort to assist Administering Agencies as well as the Responsible Parties in understanding the relevant laws, regulations and standards potentially applicable to investigation and cleanup of a site, a Checklist for Administering Agencies is provided as one of the attachments to this Implementation Guide. The Checklist provides a list of potentially applicable state and local laws, regulations, and standards, and the name of the agency that typically administers the requirement. The Administering Agency should consult with those agencies to assure compliance with applicable requirements since the Checklist does not provide a complete description of the application of the requirement.

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C. Limitations And Other Conditions

Since this law does not supersede federal environmental law or existing agreements/grants between the state agencies and the United States Environmental Protection Agency (USEPA), it may not always be possible for the Site Designation Committee to designate an Administering Agency. Responsible parties should be aware that they may have other responsibilities at hazardous materials sites, in addition to the investigation and remediation process, such as the restoration of injured State fish, wildlife species, and their habitats, under the trusteeship of the Department of Fish and Game. [e.g., see section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)]

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D. Statutory Definitions [HSC, section 25260]

Site Designation Committee or Committee â€• the Committee established within CalEPA by HSC, section 25261, consists of the following six persons or their designees:

- (1) the Secretary for Environmental Protection;
- (2) the Director of the Department of Toxic Substances Control;
- (3) the Chairperson of the State Water Resources Control Board;
- (4) the Director of the Department of Fish and Game, a department within the Resources Agency;
- (5) the Director of the Office of Environmental Health Hazard Assessment;
- (6) the Chairperson of the Air Resources Board.

Meetings of the Committee are subject to the Bagley-Keene State Open Meeting Act. [Government Code, sections 11120â€•11132]**Responsible Party** â€• any person, except for an independent contractor, who agrees to carry out a site investigation and remedial action at a site under HSC, section 25260(h). The Site Designation statute defines â€•Responsible Partyâ€• more broadly than CERCLA and other related state and federal laws. Under the Site Designation process, a Responsible Party is any party (except an independent contractor) who agrees to conduct investigation and cleanup of a site. This definition specifically relates to eligibility for the Site Designation process, and does not speak to any liability issues addressed in other statutes.

Administering Agency â€• the state or local agency designated by the Site Designation Committee pursuant to HSC, section 25262. [HSC, section 25260(a)]**Agency (used herein as Appropriate Agency)** â€• any city, county, district, commission, the state, or any department, agency, or political subdivision thereof, that has jurisdiction under a state or local law, ordinance, or regulation to supervise, oversee, or approve a site investigation and a remedial action at a hazardous materials release site. [HSC, section 25260(c)] The Administering Agency is also an Appropriate Agency.

Advisory Team â€• the formal Team that may be convened by the Site Designation Committee to provide guidance pursuant to HSC, section 25263. [HSC, section 25260(b)] When the Team has been officially convened by the Committee, meetings are subject to the Bagley-Keene Open Meeting Act. [Government Code, sections 11120-11132]**Certificate of Completion** â€• means the written document setting forth the determination of the Administering Agency, including any conditions imposed, that the Responsible Party has satisfactorily completed the investigation and remedial action at the site, and that a remedy to the release has been accomplished.

Secretary â€• means the Secretary for Environmental Protection of the California Environmental Protection Agency.

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E. Other Definitions

Consultative Work Group â?? an informal group of agency staff representing the Administering Agency and each Support Agency for a given site. These are individuals who will actually develop all necessary permits for the site and conduct other necessary oversight activities.

Site Designation Work Group â?? a group consisting of staff from the Air Resources Board, State Water Resources Control Board, Department of Toxic Substances Control, Department of Fish & Game, Office of Environmental Health Hazard Assessment, and CalEPA that assists the Site Designation Committee in implementation of Chapter 6.65.

Support Agency â?? an Appropriate Agency that is not the Administering Agency.

Work Groups â?? The Consultative and Site Designation Work Groups are informal work groups whose meetings are not subject to the Bagley-Keene State Open Meeting Act.

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F. Site Designation Applications

A Responsible Party for a hazardous materials release site may request the Committee at any time to designate an Administering Agency to oversee a site investigation and remedial action at the site, by submitting a Site Designation application. Applicants are encouraged to contact the Site Designation Coordinator at (916) 327-7780 when considering submission of an application. The Site Designation Committee meetings are prescheduled and dates are posted on [CalEPA's website](#).

- The application package must include all information specified by the application instructions.
- The [application form](#) (PDF) or a cover letter to the application package must be signed by the Responsible Party (as defined by Health and Safety Code Chapter 6.65) or a legally authorized representative of the Responsible Party.
- A list of names and addresses must be provided that includes: (1) the owner of the property; (2) known interested personsâ??which includes landowners and lessees of properties adjacent to or

affected by the site; (3) other state and local agencies concerned with environmental investigation and cleanup; other known persons or community organizations interested in the site. If possible, submit these names/address as one set of mailing labels.

- Applications must also include a legal description of the property to be known as the "Site" for purposes of the requested designation.
- Responsible parties/applicants may attach additional documentation as needed. It is requested that entire reports or studies not be included with the application—excerpts or executive summaries usually provide adequate information.
- Responsible parties should provide the Committee with the original and 10 copies of the application and all accompanying documentation. However, if the applicant is interested in submission of the application using electronic mail, please contact the Site Designation Coordinator to discuss options.
- Applications must be mailed to the California Environmental Protection Agency, Site Designation Committee at the address shown on the [application instructions \(PDF\)](#).

An application for designation of an Administering Agency for a single site with multiple responsible parties may be submitted to the Committee so long as at least one Responsible Party agrees to carry out the entire site investigation and remedial action at the site. Inquiries regarding the Site Designation process may be directed to the Chair of the Site Designation Committee at Site.Designation@calepa.ca.gov, or the Coordinator for the Committee at (916) 327-7780.

Multiple parties may jointly submit an application for designation of an Administering Agency for a single site as long as they each agree to carry out the site investigation and remedial action at the site.

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G. Site Designation Committee Process

Only a complete application from a Responsible Party can trigger a Site Designation Committee action. Within 45 days of receipt of a complete application, the Site Designation Committee meets in a noticed public forum to hear comments from the applicant, Appropriate Agencies, and other interested persons. If it appears that the 45-day period for review by the Committee cannot be met, the coordinator for the Committee may schedule an alternate time with the applicant.

Applicants are provided an opportunity to comment at the Committee meeting. Any person who would like to participate by telephone should make arrangements with the Site Designation Coordinator in advance of the scheduled Committee meeting.

In selecting the Administering Agency, the Committee is required to consider a number of factors and criteria specified in HSC, section 25262, and to make a judgment as to what agency best meets these factors and criteria. The Site Designation Committee may designate the Agency requested by the Applicant/ Responsible Party or any other Appropriate Agency as the Administering Agency for the site or may choose not to designate an Administering Agency.

The Committee must designate an Administering Agency unless it finds that:

1. No single agency in state or local government has the expertise needed to adequately oversee a site investigation and remedial action at the site;
2. Designating an Administering Agency will have the effect of reversing a regulatory or enforcement action initiated by an agency that has jurisdiction over the site, a facility on the site, or an activity at the site; or
3. Designating an Administering Agency will prevent a regulatory or enforcement action required by federal law or regulations; or
4. The Administering Agency and the Responsible Party are local agencies formed, in whole or in part, by the same political subdivision.

A Committee designation decision requires agreement of at least four of the six Committee members. [HSC, section 25261(b)] The designation will be documented by a resolution of the Site Designation Committee. The [resolution \(PDF\)](#) may clarify limitations or conditions of the designation, if desired by the Site Designation Committee. (A sample resolution is contained in the Attachments.)

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H. Notification Of Agency Designation

The Chairperson for the Site Designation Committee is responsible for sending written notification of the designation to the applicant, designated Administering Agency and interested parties if they request a copy of the notification. Support Agencies will also receive notification when an Advisory Team has been requested. Where practicable, notification should occur within 30 days of agency designation. The Administering Agency should obtain the interested parties mailing list and the list of contact persons for Appropriate Agencies utilized by the Site Designation Committee (from CalEPA). The Administering Agency is encouraged to meet with the Responsible Party within 30 days of agency designation to discuss contacts and other procedural matters, information exchange (including prior technical reports developed on the site), oversight cost recovery by the Administering and Support Agencies, schedules for site investigation and remedial action, agency and Responsible Party expectations, etc.

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I. Coordination Of Agency Involvement

The Administering Agency is responsible for arranging consultative meetings, telephone conferences, and other communication between the Administering Agency and all Support Agencies¹ i.e., the Consultative Work Group. (The only exception may be if an Advisory Team is requested by an agency other than the Administering Agency.) Agency coordination also includes requests for input from Support Agencies on permitting and other issues critical to site investigation and remedial action. Such coordination may occur by memoranda with deadlines to respond with comments or permit conditions. The Administering Agency should obtain the list of contact persons for Appropriate Agencies utilized by the Site Designation Committee (from CalEPA staff). The Administering Agency should document its efforts to schedule meetings and telephone conferences with Support Agencies.

Consultative Work Group (Informal Consultation)

The Administering Agency's letter requesting the first Consultative Work Group meeting should include a deadline for reply by the Support Agencies. The request for the first consultative meeting may be combined with the notification to Support Agencies of Administering Agency designation. (See attached form letter.) Where practicable, the first meeting of the Consultative Work Group should be held within 45 days of agency designation. The subjects for the Consultative Work Group meetings should include potential or known areas of concern, technical problems, coordination of site investigation and cleanup activity oversight, fees, identifying required permits, requirements for permits, estimated agency costs and what is required for the Responsible Party to comply with Appropriate Agency laws, ordinances, and regulations. The Administering Agency may decide how to structure the meetings and who to include in addition to Support Agency representatives.

The purpose of the Consultative Work Group meetings is to foster a coordinated effort to investigate and remediate the site and to lessen the need of Appropriate Agencies to formally petition the Site Designation Committee to convene an Advisory Team, pursuant to HSC, section 25263. The Administering Agency and any interested members of the Consultative Work Group should meet with the Responsible Party within 60 days of agency designation to discuss the results of the first Consultative Work Group meeting. At this meeting all involved agencies should provide a comprehensive estimate of costs. The Administering Agency should prepare and submit (to CalEPA) a [Status Report \(PDF\)](#) or [Status Report \(MS, Word\)](#) following the initial Consultative Work Group meeting.

The Administering Agency should coordinate with Support Agencies with respect to the responsibilities of all agencies at the site, including identification of applicable requirements, including permits, and oversight costs. Responsible Parties are responsible for reimbursing the Administering and Support Agencies for their appropriate oversight costs and appropriate permit fees related to investigation and remediation of the particular site. See the **Permit Development, Adoption, & Issuance** section below. The Administering Agency is not responsible for collecting such costs and fees for a Support

Agency (except upon mutual agreement). The Administering and Support Agencies may enter into voluntary agreements with the Responsible Party for collecting oversight costs and permit fees.

Advisory Team (Formal Consultation)

Any agency, including the Administering Agency, may request the Site Designation Committee to convene an Advisory Team for the purpose of providing the Administering Agency with guidance in overseeing the site investigation and remedial action at a hazardous materials release site. If the request is made by an agency other than the Administering Agency, the request must be in writing to the Site Designation Committee and shall specify any issue that is of concern to the requesting agency, the requirements of the laws, ordinances, regulations, or standards that are related to the issue, and the manner in which the administration or implementation of those requirements by the Administering Agency has raised the issue concerning the site investigation or remedial action at the site. The Committee shall create such a Team within 30 calendar days of the receipt of the request.

If the Advisory Team is established based on a request from an agency other than the Administering Agency (in accordance with HSC section 25263), the Advisory Team shall be chaired by a representative of the agency that requested the Advisory Team.

The role of the Advisory Team is to provide information to the Administering Agency. Members of the Advisory Team are eligible for reimbursement of oversight costs related to participation on the Advisory Team, under specific circumstances. Refer to HSC section 25263 (b) for further details concerning the Advisory Team. There are specific limitations regarding cost reimbursement for agencies other than the Administering Agency that are members of the Advisory Team. [HSC, section 25263 (c) and (d)]

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J. Determination Of Administering Agency Qualifications

HSC section 25262(c)(1)(E) requires the Committee in making the designation to consider the capabilities and expertise of the agencies that are candidates for designation.

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K. Site Tracking And Status Reports

The Administering Agency is responsible for tracking its activities and those of all Support Agencies with respect to investigation and remedial action at the site. Information exchange between the agencies for such tracking may be accomplished through the meetings of the Consultative Work Group. Brief [status reports \(PDF\)](#) or [Status Report \(MS, Word\)](#) should be prepared by the Administering Agency and forwarded to CalEPA.

The first Status Report should summarize the first meeting of the Consultative Work Group. As practicable, Status Reports should be generated at least annually thereafter on June 30th. Complete the Status Report based on the most up-to-date information available and the instructions on page 2 of the form. The Administering Agency should also provide a final Status Report along with a copy of the closure letter and/or Certificate of Completion to CalEPA upon completion of the project when a "No Further Action" determination is made or when there is an issuance of a Certificate of Completion.

A copy of the annual updated list of designated sites is posted on the Site Designation CalEPA webpage. The Status Reports submitted by the Administering Agencies are used to update the List of Designated Sites posted on the webpage.

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L. Permit Development, Adoption, And Issuance

One or more permits or other forms of authorization may be necessary for investigative and/or remedial actions at a site. Depending on the complexity of the site and the phase of investigation and cleanup, the Administering Agency may have sufficient expertise to be able to develop, issue, and ascertain compliance with all permits required for site investigation and remedial action. Before issuing a permit or other authorization, the Administering Agency must consult with the Appropriate Agency and ensure that required procedures are followed and adequate permit requirements and conditions are imposed. [HSC, section 25264(a)]To ensure that required procedures are followed and adequate requirements and conditions are imposed, it may be more effective if the Support Agencies develop and conditionally adopt necessary permits using their normal procedures. Each permit developed and conditionally adopted by a Support Agency should contain a provision that the permit becomes effective only upon written approval of the Administering Agency. Support Agencies should forward such permits to the Administering Agency for issuance to the Responsible Party. To ensure that conflicts do not exist between conditional permits for a particular site, all permit writers should coordinate permit language through regular discussion with Consultative Work Group members. Permits prepared by the Administering Agency would not need to be conditional; however, coordination through the Consultative Work Group would still be necessary.

Special Conditions & Exceptions

Federally mandated permits, such as Resource Conservation and Recovery Act (RCRA) and National Pollutant Discharge Elimination System (NPDES) permits, must be issued by the agency to which the permitting authority has been delegated or approved by the federal government. The Department of Toxic Substances Control has the authority to issue RCRA permits. The California Regional Water Quality Control Boards have authority to issue NPDES permits, including storm water permits. Note that use of the Site Designation Committee Process does not preclude action or issuance of permits by federal agencies.

Department of Fish and Game Stream Alteration Agreements—often investigated and approved in the field—follow very short approval time frames (15 to 30 days maximum). If a Stream Alteration Agreement is required as part of site investigation or remedial action, this short time frame could make the conditional approval process difficult, especially if the Responsible Party does not agree to the condition of Administering Agency approval. Therefore, it is critical that Responsible Party cooperation be assured early in the process and that the short approval turnaround be built into the process from the beginning.

Other statutes contain strict timeframes and other limits for issuing permits. The Administering Agency should consult with the appropriate Support Agencies to assure compliance with such limitations.

The Site Designation Committee process applies only to the investigation and remedial action of hazardous materials. Permits for operational or other activities at a site are not subject to the Site Designation Committee process. For example, construction permits or waste discharge requirements for a sewage treatment facility at a site would not be subject to the program.

Applications & Information Needs

To develop the necessary permits, Responsible Parties must complete all Appropriate Agency application and information requirements. The Administering Agency should coordinate the submittal of information needed by all agencies for necessary permits. In the first Consultative Work Group meeting between the Administering Agency and all Support Agencies, the Administering Agency should gather all of the required application forms and information needs for transmittal to the Responsible Party. It is recommended that contact names and telephone numbers for all Appropriate Agencies also be transmitted to the Responsible Party, so that questions may be answered expeditiously. The Responsible Party should be encouraged to respond to the Administering Agency with combined information submittals where appropriate, to avoid the duplication of similar information in multiple reports.

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M. California Environmental Quality Act (CEQA)

For all actions requiring CEQA compliance, the Administering Agency would, under most circumstances, act as CEQA “lead agency” for the remedial action while Support Agencies should act as CEQA “responsible agencies” or “trustee agencies.”

To reduce review time and optimize the CEQA and permitting processes, agencies are encouraged to combine the permit application and review process with the CEQA process, to the extent practicable. In cases where an environmental document is required, the draft document should be prepared so as to contain all application information required by the Appropriate Agencies to develop required permits for site investigation and cleanup. Comments submitted by Support Agencies to the Administering Agency on the draft environmental document should include draft permit language when practicable.

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N. Coordination Of Monitoring And Reporting Requirements

Monitoring and reporting conditions within all permits for any given site should be coordinated and submitted to the Administering Agency for dissemination to Support Agencies.

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O. Site Certification And Certificate Of Completion

The Administering Agency should provide the Responsible Party, interested persons, and the public, 60 days notice prior to issuing a Certificate of Completion. Upon request by any person, the Administering Agency shall hold a public meeting and determine whether to issue or deny a [Certificate of Completion](#) (MS Word). HSC section 25265 provides the basis for issuance of the Certificate of Completion and the basis for further actions by agencies at the site.

The Administering Agency may issue a Certificate of Completion if it determines that the Responsible Party has complied with the requirements of all state and local laws, ordinances, regulations, and standards that are applicable. [HSC, section 25264(c)] Any agency may petition the Site Designation Committee chairperson to review the Administering Agency's decision to issue a Certificate of Completion. Therefore, the Administering Agency should consult with all Support Agencies, and must consult with the Advisory Team if one has been convened by the Site Designation

Committee, before issuing a Certificate of Completion to a site. Consultative Work Group meetings can be used to exchange information on site compliance.

The Administering Agency should issue a Certificate of Completion in compliance with its own procedural requirements, including notice to Support Agencies. The issuance of the Certificate should be included in a final [status report \(PDF\)](#) or [Status Report \(MS, Word\)](#) and should describe the certification including any conditions placed on the property. In some instances involving large sites with separate areas of hazardous materials releases, it may be appropriate to issue a Certificate of Completion for a portion of a site. If a Certificate of Completion is issued for only a portion of the site (site is defined as the area described in the approved resolution), the Certificate must state that only a portion of the site is being certified. In such a case, the remaining portions of the site investigation and remedial action would remain subject to the jurisdiction of the Administering Agency.

Issuance of a Certificate of Completion does not preclude all future actions by government agencies. In accordance with HSC, section 25264(c)(1-6), the Administering Agency may take action against the Responsible Party with respect to the hazardous materials release that was the subject of the site investigation and remedial action after a Certificate of Completion is issued, if:

1. Subsequent monitoring, testing, or analysis of the hazardous materials release site indicates that the remedial action standards and objectives were not achieved or are not being maintained;
2. Conditions, restrictions, or limitations imposed on the site are violated;
3. Required site monitoring or operation and maintenance activities are not adequately funded or are not properly performed;
4. A new or previously undiscovered release occurs at the site that was not part of the site remedial actions for which the site was issued a certificate of completion;
5. A material change in the facts or new facts cause the Administering Agency to find further site investigation and remedial action are required to prevent a significant risk to human health and safety or to the environment; or
6. The Responsible Party induced the Administering Agency to issue the certificate of completion by fraud, negligent, or intentional nondisclosure or misrepresentation.

Except as provided in Section 25265, the Administering Agency shall be the sole agency responsible for determining if any of the conditions described in paragraphs (1) through (6), inclusive, of subdivision (c) are applicable to a hazardous materials release site for which a certificate of completion has been issued pursuant to subdivision (b), and for taking any action that is deemed necessary if that determination is made. Any agency, other than the Administering Agency, that has information that any of those conditions applies to the hazardous materials site shall provide the Administering Agency with that information and the Administering Agency shall, within 45 calendar days of receipt of the request, do all of the following:

- (A) Determine whether the condition is applicable.
- (B) If it is applicable, determine if further action at the site is warranted.
- (C) If further action is warranted, take further action at the site as may be necessary.

If the Administering Agency fails, or refuses, to act properly or in a timely manner, as required by this subdivision, the agency that provided the information to the Administering Agency may petition the

Committee for review in accordance with Section 25265 (b).

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P. Review Of Agency Actions

By Responsible Party: The action of the Site Designation Committee to designate an Administering Agency is a final action and is not subject to further administrative or judicial review by anyone, including the Responsible Party. [HSC, section 25262(d)] The Responsible Party may, however, with the approval of the Administering Agency, terminate the designation. [HSC, section 25266]**By Responsible Party and/or Public:** The Responsible Party and the public may appeal actions of the Administering Agency by following that agency's appeal process. The appeal processes of the Support Agencies are also available, but may not be effective, since the Administering Agency has sole jurisdiction over all activities that may be required to carry out a site investigation and remedial action necessary to respond to the hazardous materials release at the site.â?• [HSC, section 25264]**By Support Agencies:** If at any time a Support Agency (1) asserts that the Administering Agency is not appropriately implementing applicable state and local laws, ordinances, regulations and standards, or (2) disagrees with the decision of the Administering Agency to issue a Certificate of Completion for a site, or (3) asserts a failure or refusal by the Administering Agency to take enforcement action pursuant to 25264 (d), the Support Agency may petition the Site Designation Committee under HSC, section 25265 to review these matters.

By Committee: Under HSC section 25265 (c), the Committee shall review petitions submitted pursuant to section 25265 (a) and make a decision within 30 calendar days of the date the petition is received. The Committee may grant or deny the petition. If the Committee finds that the Administering Agency is not properly implementing a state or local law, ordinance, regulation, or standard, the Committee will divest the Administering Agency of exclusive jurisdiction over the implementation of that law, ordinance, regulation, or standard and the jurisdiction shall revert to the Appropriate Agency. If the Committee finds that there are valid grounds for objecting to the issuance of a Certificate of Completion, the Committee will specify the actions that the Responsible Party and the Administering Agency must take before the Certificate of Completion may be issued. If the Committee finds that the Administering Agency is not taking proper enforcement action under HSC section 25264 (d), the Committee shall require the Administering Agency to take further action or designate another Administering Agency to take the necessary action.

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Q. Enforcement

The Administering Agency is responsible for enforcement related to the site investigation and remedial actions except as specified in HSC section 25265 (a) and as discussed above. The Site Designation Committee has the option to divest the Administering Agency of jurisdiction and return any permit and necessary enforcement to the appropriate agency.

All Agencies retain jurisdiction for enforcement of violations of statutes and regulations not related to the investigation and remedial action of hazardous materials at the site.

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R. Change Of Administering Agency

If, at any time, the Administering Agency determines that the Site Designation application and supporting information was inaccurate or incomplete and that new information would likely have resulted in the designation of a different Administering Agency, the Administering Agency may request the Site Designation Committee to review the original designation under HSC, section 25267. In response to such a request, the Committee may rescind the original designation and designate a different Administering Agency. Should such new information become available to the Administering Agency, the Administering Agency is responsible for sharing that information with all other Appropriate Agencies.

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S. Termination Of Site Designation Process

The Responsible Party, with the approval of the Administering Agency, may terminate the application. As set forth in HSC 25266, the Administering Agency shall provide notification that the termination has occurred. The Responsible Party may not request the designation of another Administering Agency.

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T. References In Other Statutes

Relationship to the Polanco Act

The Polanco Redevelopment Act, HSC sections 33459 through 33459.8 (a part of the Community Redevelopment Act), was enacted to assist local redevelopment agencies in restoring brownfield properties in their redevelopment areas. It prescribes processes for redevelopment agencies to follow when cleaning up a hazardous substance release in a redevelopment project area. It also provides immunity from liability for redevelopment agencies and subsequent property purchasers for sites cleaned up under an approved cleanup plan. The Polanco Redevelopment Act has become a widely used tool by redevelopment agencies to guide and pursue redevelopment of brownfields properties.

Under HSC section 33459.1, a redevelopment agency may request oversight and approval of cleanup or remedial action plans from DTSC or a Regional Water Quality Control Board a process unrelated to Site Designation. However, in order for a Local Agency to be the oversight agency (rather than DTSC or a Regional Water Quality Control Board), one of several options as specified in HSC section 33459.1(d) would need to be applicable or occur. Only one of these options involves the Site Designation Process. HSC section 33459.1(d)(1) provides that the Local Agency may be designated as the Administering Agency as defined by HSC 25262. In order for that to occur, the redevelopment agency, or other appropriate Responsible Party as defined by HSC section 25260, must submit an application and be designated by the Site Designation Committee. Additionally, a Local Agency may not be designated unless the Local Agency consents and indicates it has adequate staff resources and the requisite technical expertise and capabilities necessary to adequately supervise the remedial action.

Abandoned Mine Remediation

California Water Code Division 7, Chapter 5.7 addresses the remediation of abandoned mines. It establishes a process for public agencies, who are not otherwise responsible parties, to undertake remediation at abandoned mines without becoming responsible parties for the site. The remediating agency may submit a remediation plan to the oversight agency that addresses specific criteria. Upon approval by the oversight agency and implementation by the remediating agency, the remediating agency will not be deemed to be a Responsible Party under state law for the site. In most cases the oversight agency is the State Water Resources Control Board. If the remediating agency is the State Water Resources Control Board, the oversight agency shall be the Site Designation Committee. In such cases, the remediating agency must submit its remediation plan to the Site Designation Committee according to the process specified in this Implementation Guide.

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U. Attachments To The Implementation Guide

- [Statute](#) (Health and Safety Code, Division 20, Chapter 6.65, beginning with section 25260)
- [Checklist \(PDF\)](#) for Administering Agencies (7/11/00)
- [Application form and instructions \(PDF\)](#)
- [Standard resolution language \(PDF\)](#) for the Site Designation Committee
- [Form letter](#) calling the first meeting of the Consultative Work Group
- [Site Designation Status Report \(PDF\)](#) or [\(MS, Word\)](#) and instructions
- [Sample Certification of Completion \(MS Word\)](#)

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The Site Designation Process Under the Unified Agency Review of Hazardous Material Release Sites:
[Health and Safety Code, Division 20, Chapter 6.65](#)

The Site Designation Committee has developed an **Implementation Guide** to provide information on the Site Designation process, outline steps for the application process for potential applicants, and provide information for Administering and Support Agencies. Following are the headings of topics discussed in the Implementation Guide. Click on the heading for the subject you are interested in or read the document from beginning to end to get an overview of the process.

A.

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- Role of Support Agencies

B.

[Early Determination Of Agency Requirements](#)

C.

[Limitations And Other Conditions](#)

D. [Statutory Definitions](#)

E.

[Other Definitions](#)

F. [Site Designation Applications](#)

- Expedited Remedial Action Program

G. [Site Designation Committee Process](#)

H. [Notification Of Agency Designation](#)

I. [Coordination Of Agency Involvement](#)

- Consultative Work Group (Informal Consultation)
- Advisory Team (Formal Consultation)

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M. [California Environmental Quality Act \(CEQA\)](#)

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O. [Site Certification And Certificate Of Completion](#)

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- Relationship to the “Polanco Act”
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- [Statute](#) (Health and Safety Code, Division 20, Chapter 6.65, beginning with section 25260)
- [Checklist](#) (PDF) for Administering Agencies (7/11/00)
- [Application form and instructions](#) (PDF)
- [Standard resolution language for the Site Designation Committee](#) (PDF)
- [Form letter](#) calling the first meeting of the Consultative Work Group
- Site Designation Status Report ([PDF](#)) | instructions ([MS](#), [Word](#))
- Sample Certificate of Completion ([MS Word](#))

A. Introduction And Overview

Assembly Bill (AB) 2061 (Umbarger) amended the Health and Safety Code (HSC) by adding Chapter 6.65 to Division 20. This law took effect on January 1, 1994 and was amended by Senate Bill (SB) 923 of 1994, Senate Bill 1425 of 1996, and SB 667 of 2000. The purpose of the Site Designation process is to allow a Responsible Party who agrees to carry out a site investigation and remedial action to request the Site Designation Committee (Committee) within the California Environmental Protection Agency (CalEPA) to designate a single state or local agency (Administering Agency) to oversee the site investigation and remedial action. (As discussed under “Statutory Definitions,” a Responsible Party as defined, in part, in the Health and Safety Code Chapter 6.65 section 25260 is “any person” who agrees to carry out a site investigation and remedial action at a hazardous materials release site.)

The Committee consists of six members representing CalEPA, the Air Resources Board, the Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, and the Department of Fish and Game.

This Implementation Guide provides a discussion of the Site Designation process and Administering Agency and Support Agency responsibilities. It includes guidance for coordinating regulatory activities necessary during the various phases of site investigation, remediation, and following the determination that an approved remedy has been accomplished, issuance of a Certificate of Completion.

Role of Administering Agency

The Administering Agency for a “hazardous materials release site” is authorized to supervise all aspects of site cleanup. For that purpose the Administering Agency is granted sole jurisdiction over all activities necessary to respond to the hazardous materials release. [HSC, section 25264 (a)] The Administering Agency administers all state and local laws, ordinances, regulations, and standards that are applicable to, and govern the site investigation and remedial action at the site. [HSC, section

25264(a)] The investigation and remedial action at a hazardous materials release site overseen by an Administering Agency will be implemented consistent with all applicable existing grants and delegations of federal authority. The Administering Agency also issues required permits and must ensure that required procedures are followed and adequate permit requirements and conditions are imposed. The Administering Agency must consult with other appropriate Agencies or Support Agencies when issuing permits or other forms of authorization not normally within its own jurisdiction. [HSC, section 25264(a)(3)] This includes maintaining active communication between agencies that would normally be involved in the process and providing consistency in applying these agencies' statutory and regulatory requirements.

If the Administering Agency would like to formally request technical support from other agencies, the Administering Agency may request that the Committee convene an Advisory Team. Once a cleanup has been completed to the satisfaction of the Administering Agency, a Certificate of Completion is issued by the Administering Agency. Prior to issuing the certification, the Administering Agency should provide a 60-day notice to interested agencies and parties. This certificate constitutes a determination that the remedial action has complied with applicable state and local requirements. No state or local agency may take any further enforcement action related to a certified site, except under certain circumstances specified in HSC section 25264(c).

Role of Support Agencies

Support Agencies are those agencies that have not been designated as the Administering Agency by the Site Designation Committee, but have a role in the investigation and remedial action as specified in HSC Chapter 6.65. The Administering Agency must consult with appropriate Support Agencies before issuing permits or other authorizations necessary for activities relating to investigation and remedial action. Support agencies should specify in writing to the Administering Agency all applicable laws, standards, and permit requirements for the investigation and cleanup. Support Agencies also participate in consultative work group meetings or may formally request an Advisory Team to provide guidance to the Administering Agency in overseeing the site investigation and remedial action.

Any agency may request the Committee to convene an Advisory Team and may petition the Committee if it believes that relevant laws, ordinances, regulations and standards are not being properly implemented by the Administering Agency. Such petitions may result in rescinding the original Administering Agency designation.

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B. Early Determination Of Agency Requirements

In an effort to assist Administering Agencies as well as the Responsible Parties in understanding the relevant laws, regulations and standards potentially applicable to investigation and cleanup of a site, a Checklist for Administering Agencies is provided as one of the attachments to this Implementation Guide. The Checklist provides a list of potentially applicable state and local laws, regulations, and standards, and the name of the agency that typically administers the requirement. The Administering Agency should consult with those agencies to assure compliance with applicable requirements since the Checklist does not provide a complete description of the application of the requirement.

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C. Limitations And Other Conditions

Since this law does not supersede federal environmental law or existing agreements/grants between the state agencies and the United States Environmental Protection Agency (USEPA), it may not always be possible for the Site Designation Committee to designate an Administering Agency. Responsible parties should be aware that they may have other responsibilities at hazardous materials sites, in addition to the investigation and remediation process, such as the restoration of injured State fish, wildlife species, and their habitats, under the trusteeship of the Department of Fish and Game. [e.g., see section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)][top](#)

D. Statutory Definitions [HSC, section 25260]

Site Designation Committee or Committee â?? the Committee established within CalEPA by HSC, section 25261, consists of the following six persons or their designees:

- (1) the Secretary for Environmental Protection;
- (2) the Director of the Department of Toxic Substances Control;
- (3) the Chairperson of the State Water Resources Control Board;
- (4) the Director of the Department of Fish and Game, a department within the Resources Agency;
- (5) the Director of the Office of Environmental Health Hazard Assessment;
- (6) the Chairperson of the Air Resources Board.

Meetings of the Committee are subject to the Bagley-Keene State Open Meeting Act. [Government Code, sections 11120â??11132]**Responsible Party** â?? any person, except for an independent contractor, who agrees to carry out a site investigation and remedial action at a site under HSC, section 25260(h). The Site Designation statute defines â??Responsible Partyâ?• more broadly than CERCLA and other related state and federal laws. Under the Site Designation process, a Responsible Party is any party (except an independent contractor) who agrees to conduct investigation and cleanup of a site. This definition specifically relates to eligibility for the Site Designation process, and does not speak to any liability issues addressed in other statutes.

Administering Agency â?? the state or local agency designated by the Site Designation Committee pursuant to HSC, section 25262. [HSC, section 25260(a)]**Agency (used herein as Appropriate Agency)** â?? any city, county, district, commission, the state, or any department, agency, or political subdivision thereof, that has jurisdiction under a state or local law, ordinance, or regulation to supervise, oversee, or approve a site investigation and a remedial action at a hazardous materials release site. [HSC, section 25260(c)] The Administering Agency is also an Appropriate Agency.

Advisory Team â?? the formal Team that may be convened by the Site Designation Committee to provide guidance pursuant to HSC, section 25263. [HSC, section 25260(b)] When the Team has been officially convened by the Committee, meetings are subject to the Bagley-Keene Open Meeting Act. [Government Code, sections 11120-11132]**Certificate of Completion** â?? means the written document setting forth the determination of the Administering Agency, including any conditions imposed, that the Responsible Party has satisfactorily completed the investigation and remedial action at the site, and that a remedy to the release has been accomplished.

Secretary ??? means the Secretary for Environmental Protection of the California Environmental Protection Agency.

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E. Other Definitions

Consultative Work Group ??? an informal group of agency staff representing the Administering Agency and each Support Agency for a given site. These are individuals who will actually develop all necessary permits for the site and conduct other necessary oversight activities.

Expedited Remedial Action Program (ERAP) ??? a voluntary cleanup program established pursuant to HSC, Division 20, Chapter 6.85. The Site Designation Committee must act on applications submitted for inclusion in ERAP. Under ERAP the Administering Agency must be the Department of Toxic Substances Control.

Site Designation Work Group ??? a group consisting of staff from the Air Resources Board, State Water Resources Control Board, Department of Toxic Substances Control, Department of Fish & Game, Office of Environmental Health Hazard Assessment, and CalEPA that assists the Site Designation Committee in implementation of Chapter 6.65.

Support Agency ??? an Appropriate Agency that is not the Administering Agency.

Work Groups ??? The Consultative and Site Designation Work Groups are informal work groups whose meetings are not subject to the Bagley-Keene State Open Meeting Act.

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F. Site Designation Applications

A Responsible Party for a hazardous materials release site may request the Committee at any time to designate an Administering Agency to oversee a site investigation and remedial action at the site, by submitting a Site Designation application. Applicants are encouraged to contact the Site Designation Coordinator at (916) 327-7780 when considering submission of an application. The Site Designation Committee meetings are prescheduled and dates are posted on CalEPA's website at:

<https://calepa.ca.gov/Programs/SiteDesig/schedule.htm>

- The application package must include all information specified by the application instructions.
- The [application form](#) (PDF) or a cover letter to the application package must be signed by the Responsible Party (as defined by Health and Safety Code Chapter 6.65) or a legally authorized representative of the Responsible Party.
- A list of names and addresses must be provided that includes: (1) the owner of the property; (2) known interested persons which includes landowners and lessees of properties adjacent to or affected by the site; (3) other state and local agencies concerned with environmental investigation and cleanup; other known persons or community organizations interested in the site. If possible, submit these names/address as one set of mailing labels.
- Applications must also include a legal description of the property to be known as the "Site" for purposes of the requested designation.

- Responsible parties/applicants may attach additional documentation as needed. It is requested that entire reports or studies not be included with the application—excerpts or executive summaries usually provide adequate information.
- Responsible parties should provide the Committee with the original and 10 copies of the application and all accompanying documentation. However, if the applicant is interested in submission of the application using electronic mail, please contact the Site Designation Coordinator to discuss options.
- Applications must be mailed to the California Environmental Protection Agency, Site Designation Committee at the address shown on the [application instructions \(PDF\)](#).

An application for designation of an Administering Agency for a single site with multiple responsible parties may be submitted to the Committee so long as at least one Responsible Party agrees to carry out the entire site investigation and remedial action at the site. Inquiries regarding the Site Designation process may be directed to the Chair of the Site Designation Committee at Site.Designation@calepa.ca.gov, or the Coordinator for the Committee at (916) 327-7780.

Multiple parties may jointly submit an application for designation of an Administering Agency for a single site as long as they each agree to carry out the site investigation and remedial action at the site.

Expedited Remedial Action Program

The Site Designation Committee also acts on applications submitted pursuant to the Expedited Remedial Action Program (ERAP). ERAP was created pursuant to Senate Bill (SB) 923 (effective on January 1, 1995), the California Expedited Remedial Action Reform Act of 1994. [HSC, Division 20, Chapter 6.85] ERAP is a pilot project of the Department of Toxic Substances Control (DTSC) for cleanup of up to 30 hazardous substances release sites. Only DTSC can be designated as the Administering Agency for oversight of an ERAP site. Applications for participation in ERAP are submitted to DTSC which forwards its recommendation to the Site Designation Committee. To obtain information and an application package or copies of the policies and procedures, please contact:

Steven Becker Site Evaluation and Remediation Unit
Central California Cleanup Operations
Branch
Department of Toxic Substances Control
(916) 255-3586 ([e-mail: SBecker@dtsc.ca.gov](mailto:SBecker@dtsc.ca.gov))

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G. Site Designation Committee Process

Only a complete application from a Responsible Party can trigger a Site Designation Committee action. Within 45 days of receipt of a complete application, the Site Designation Committee meets in a noticed public forum to hear comments from the applicant, Appropriate Agencies, and other interested persons. If it appears that the 45-day period for review by the Committee cannot be met, the coordinator for the Committee may schedule an alternate time with the applicant.

Applicants are provided an opportunity to comment at the Committee meeting. Any person who would like to participate by telephone should make arrangements with the Site Designation Coordinator in advance of the scheduled Committee meeting.

In selecting the Administering Agency, the Committee is required to consider a number of factors and criteria specified in HSC, section 25262, and to make a judgment as to what agency best meets these factors and criteria. The Site Designation Committee may designate the Agency requested by the Applicant/ Responsible Party or any other Appropriate Agency as the Administering Agency for the site or may choose not to designate an Administering Agency.

The Committee must designate an Administering Agency unless it finds that:

1. No single agency in state or local government has the expertise needed to adequately oversee a site investigation and remedial action at the site;
2. Designating an Administering Agency will have the effect of reversing a regulatory or enforcement action initiated by an agency that has jurisdiction over the site, a facility on the site, or an activity at the site; or
3. Designating an Administering Agency will prevent a regulatory or enforcement action required by federal law or regulations; or
4. The Administering Agency and the Responsible Party are local agencies formed, in whole or in part, by the same political subdivision.

A Committee designation decision requires agreement of at least four of the six Committee members. [HSC, section 25261(b)] The designation will be documented by a resolution of the Site Designation Committee. The [resolution \(PDF\)](#) may clarify limitations or conditions of the designation, if desired by the Site Designation Committee. (A sample resolution is contained in the Attachments.)

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H. Notification Of Agency Designation

The Chairperson for the Site Designation Committee is responsible for sending written notification of the designation to the applicant, designated Administering Agency and interested parties if they request a copy of the notification. Support Agencies will also receive notification when an Advisory Team has been requested. Where practicable, notification should occur within 30 days of agency designation. The Administering Agency should obtain the interested parties mailing list and the list of contact persons for Appropriate Agencies utilized by the Site Designation Committee (from CalEPA). The Administering Agency is encouraged to meet with the Responsible Party within 30 days of agency designation to discuss contacts and other procedural matters, information exchange (including prior technical reports developed on the site), oversight cost recovery by the Administering and Support Agencies, schedules for site investigation and remedial action, agency and Responsible Party expectations, etc. At ERAP sites, all interested persons receive notification of the site conference to be held within 90 days of the date of the site designation.

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I. Coordination Of Agency Involvement

The Administering Agency is responsible for arranging consultative meetings, telephone conferences, and other communication between the Administering Agency and all Support Agenciesâ??i.e., the Consultative Work Group. (The only exception may be if an Advisory Team is requested by an agency other than the Administering Agency.) Agency coordination also includes requests for input from

Support Agencies on permitting and other issues critical to site investigation and remedial action. Such coordination may occur by memoranda with deadlines to respond with comments or permit conditions. The Administering Agency should obtain the list of contact persons for Appropriate Agencies utilized by the Site Designation Committee (from CalEPA staff). The Administering Agency should document its efforts to schedule meetings and telephone conferences with Support Agencies.

Consultative Work Group (Informal Consultation)

The Administering Agency's letter requesting the first Consultative Work Group meeting should include a deadline for reply by the Support Agencies. The request for the first consultative meeting may be combined with the notification to Support Agencies of Administering Agency designation. (See attached form letter.) Where practicable, the first meeting of the Consultative Work Group should be held within 45 days of agency designation. The subjects for the Consultative Work Group meetings should include potential or known areas of concern, technical problems, coordination of site investigation and cleanup activity oversight, fees, identifying required permits, requirements for permits, estimated agency costs and what is required for the Responsible Party to comply with Appropriate Agency laws, ordinances, and regulations. The Administering Agency may decide how to structure the meetings and who to include in addition to Support Agency representatives.

The purpose of the Consultative Work Group meetings is to foster a coordinated effort to investigate and remediate the site and to lessen the need of Appropriate Agencies to formally petition the Site Designation Committee to convene an Advisory Team, pursuant to HSC, section 25263. The Administering Agency and any interested members of the Consultative Work Group should meet with the Responsible Party within 60 days of agency designation to discuss the results of the first Consultative Work Group meeting. At this meeting all involved agencies should provide a comprehensive estimate of costs. The Administering Agency should prepare and submit (to CalEPA) a [Status Report \(PDF\)](#) or [Status Report \(MS, Word\)](#) following the initial Consultative Work Group meeting.

The Administering Agency should coordinate with Support Agencies with respect to the responsibilities of all agencies at the site, including identification of applicable requirements, including permits, and oversight costs. Responsible Parties are responsible for reimbursing the Administering and Support Agencies for their appropriate oversight costs and appropriate permit fees related to investigation and remediation of the particular site. See the **Permit Development, Adoption, & Issuance** section below. The Administering Agency is not responsible for collecting such costs and fees for a Support Agency (except upon mutual agreement). The Administering and Support Agencies may enter into voluntary agreements with the Responsible Party for collecting oversight costs and permit fees.

Advisory Team (Formal Consultation)

Any agency, including the Administering Agency, may request the Site Designation Committee to convene an Advisory Team for the purpose of providing the Administering Agency with guidance in overseeing the site investigation and remedial action at a hazardous materials release site. If the request is made by an agency other than the Administering Agency, the request must be in writing to the Site Designation Committee and shall specify any issue that is of concern to the requesting agency, the requirements of the laws, ordinances, regulations, or standards that are related to the issue, and the manner in which the administration or implementation of those requirements by the Administering Agency has raised the issue concerning the site investigation or remedial action at the site. The

Committee shall create such a Team within 30 calendar days of the receipt of the request.

If the Advisory Team is established based on a request from an agency other than the Administering Agency (in accordance with HSC section 25263), the Advisory Team shall be chaired by a representative of the agency that requested the Advisory Team.

The role of the Advisory Team is to provide information to the Administering Agency. Members of the Advisory Team are eligible for reimbursement of oversight costs related to participation on the Advisory Team, under specific circumstances. Refer to HSC section 25263 (b) for further details concerning the Advisory Team. There are specific limitations regarding cost reimbursement for agencies other than the Administering Agency that are members of the Advisory Team. [HSC, section 25263 (c) and (d)][top](#)

J. Determination Of Administering Agency Qualifications

HSC section 25262(c)(1)(E) requires the Committee in making the designation to consider the capabilities and expertise of the agencies that are candidates for designation.

K. Site Tracking And Status Reports

The Administering Agency is responsible for tracking its activities and those of all Support Agencies with respect to investigation and remedial action at the site. Information exchange between the agencies for such tracking may be accomplished through the meetings of the Consultative Work Group. Brief [status reports \(PDF\)](#) or [Status Report \(MS, Word\)](#) should be prepared by the Administering Agency and forwarded to CalEPA.

The first Status Report should summarize the first meeting of the Consultative Work Group. As practicable, Status Reports should be generated at least annually thereafter on June 30th. Complete the Status Report based on the most up-to-date information available and the instructions on page 2 of the form. The Administering Agency should also provide a final Status Report along with a copy of the closure letter and/or Certificate of Completion to CalEPA upon completion of the project when a "No Further Action" determination is made or when there is an issuance of a Certificate of Completion.

A copy of the annual updated list of designated sites is posted on the Site Designation CalEPA webpage. The Status Reports submitted by the Administering Agencies are used to update the List of Designated Sites posted on the webpage.

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L. Permit Development, Adoption, And Issuance

One or more permits or other forms of authorization may be necessary for investigative and/or remedial actions at a site. Depending on the complexity of the site and the phase of investigation and cleanup, the Administering Agency may have sufficient expertise to be able to develop, issue, and ascertain compliance with all permits required for site investigation and remedial action. Before issuing a permit or other authorization, the Administering Agency must consult with the Appropriate Agency and ensure that required procedures are followed and adequate permit requirements and conditions are imposed. [HSC, section 25264(a)] To ensure that required procedures are followed and adequate requirements and conditions are imposed, it may be more effective if the Support Agencies develop and conditionally

adopt necessary permits using their normal procedures. Each permit developed and conditionally adopted by a Support Agency should contain a provision that the permit becomes effective only upon written approval of the Administering Agency. Support Agencies should forward such permits to the Administering Agency for issuance to the Responsible Party. To ensure that conflicts do not exist between conditional permits for a particular site, all permit writers should coordinate permit language through regular discussion with Consultative Work Group members. Permits prepared by the Administering Agency would not need to be conditional; however, coordination through the Consultative Work Group would still be necessary.

Special Conditions & Exceptions

Federally mandated permits, such as Resource Conservation and Recovery Act (RCRA) and National Pollutant Discharge Elimination System (NPDES) permits, must be issued by the agency to which the permitting authority has been delegated or approved by the federal government. The Department of Toxic Substances Control has the authority to issue RCRA permits. The California Regional Water Quality Control Boards have authority to issue NPDES permits, including storm water permits. Note that use of the Site Designation Committee Process does not preclude action or issuance of permits by federal agencies.

Department of Fish and Game Stream Alteration Agreementsâ??often investigated and approved in the fieldâ??follow very short approval time frames (15 to 30 days maximum). If a Stream Alteration Agreement is required as part of site investigation or remedial action, this short time frame could make the conditional approval process difficult, especially if the Responsible Party does not agree to the condition of Administering Agency approval. Therefore, it is critical that Responsible Party cooperation be assured early in the process and that the short approval turnaround be built into the process from the beginning.

Other statutes contain strict timeframes and other limits for issuing permits. The Administering Agency should consult with the appropriate Support Agencies to assure compliance with such limitations.

The Site Designation Committee process applies only to the investigation and remedial action of hazardous materials. Permits for operational or other activities at a site are not subject to the Site Designation Committee process. For example, construction permits or waste discharge requirements for a sewage treatment facility at a site would not be subject to the program.

Applications & Information Needs

To develop the necessary permits, Responsible Parties must complete all Appropriate Agency application and information requirements. The Administering Agency should coordinate the submittal of information needed by all agencies for necessary permits. In the first Consultative Work Group meeting between the Administering Agency and all Support Agencies, the Administering Agency should gather all of the required application forms and information needs for transmittal to the Responsible Party. It is recommended that contact names and telephone numbers for all Appropriate Agencies also be transmitted to the Responsible Party, so that questions may be answered expeditiously. The Responsible Party should be encouraged to respond to the Administering Agency with combined information submittals where appropriate, to avoid the duplication of similar information in multiple reports.

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M. California Environmental Quality Act (CEQA)

For all actions requiring CEQA compliance, the Administering Agency would, under most circumstances, act as CEQA “lead agency” for the remedial action while Support Agencies should act as CEQA “responsible agencies” or “trustee agencies.”

To reduce review time and optimize the CEQA and permitting processes, agencies are encouraged to combine the permit application and review process with the CEQA process, to the extent practicable. In cases where an environmental document is required, the draft document should be prepared so as to contain all application information required by the Appropriate Agencies to develop required permits for site investigation and cleanup. Comments submitted by Support Agencies to the Administering Agency on the draft environmental document should include draft permit language when practicable.

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N. Coordination Of Monitoring And Reporting Requirements

Monitoring and reporting conditions within all permits for any given site should be coordinated and submitted to the Administering Agency for dissemination to Support Agencies.

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O. Site Certification And Certificate Of Completion

The Administering Agency should provide the Responsible Party, interested persons, and the public, 60 days notice prior to issuing a Certificate of Completion. Upon request by any person, the Administering Agency shall hold a public meeting and determine whether to issue or deny a [Certificate of Completion](#) (MS Word). HSC section 25265 provides the basis for issuance of the Certificate of Completion and the basis for further actions by agencies at the site.

The Administering Agency may issue a Certificate of Completion if it determines “that the Responsible Party has complied with the requirements of all state and local laws, ordinances, regulations, and standards that are applicable.” [HSC, section 25264(c)] Any agency may petition the Site Designation Committee chairperson to review the Administering Agency’s decision to issue a Certificate of Completion. Therefore, the Administering Agency should consult with all Support Agencies, and must consult with the Advisory Team if one has been convened by the Site Designation Committee, before issuing a Certificate of Completion to a site. Consultative Work Group meetings can be used to exchange information on site compliance.

The Administering Agency should issue a Certificate of Completion in compliance with its own procedural requirements, including notice to Support Agencies. The issuance of the Certificate should be included in a final [status report \(PDF\)](#) or [Status Report \(MS, Word\)](#) and should describe the certification including any conditions placed on the property. In some instances involving large sites with separate areas of hazardous materials releases, it may be appropriate to issue a Certificate of Completion for a portion of a site. If a Certificate of Completion is issued for only a portion of the site (site is defined as the area described in the approved resolution), the Certificate must state that only a

portion of the site is being certified. In such a case, the remaining portions of the site investigation and remedial action would remain subject to the jurisdiction of the Administering Agency.

Issuance of a Certificate of Completion does not preclude all future actions by government agencies. In accordance with HSC, section 25264(c)(1-6), the Administering Agency may take action against the Responsible Party with respect to the hazardous materials release that was the subject of the site investigation and remedial action after a Certificate of Completion is issued, if:

1. Subsequent monitoring, testing, or analysis of the hazardous materials release site indicates that the remedial action standards and objectives were not achieved or are not being maintained;
2. Conditions, restrictions, or limitations imposed on the site are violated;
3. Required site monitoring or operation and maintenance activities are not adequately funded or are not properly performed;
4. A new or previously undiscovered release occurs at the site that was not part of the site remedial actions for which the site was issued a certificate of completion;
5. A material change in the facts or new facts cause the Administering Agency to find further site investigation and remedial action are required to prevent a significant risk to human health and safety or to the environment; or
6. The Responsible Party induced the Administering Agency to issue the certificate of completion by fraud, negligent, or intentional nondisclosure or misrepresentation.

Except as provided in Section 25265, the Administering Agency shall be the sole agency responsible for determining if any of the conditions described in paragraphs (1) through (6), inclusive, of subdivision (c) are applicable to a hazardous materials release site for which a certificate of completion has been issued pursuant to subdivision (b), and for taking any action that is deemed necessary if that determination is made. Any agency, other than the Administering Agency, that has information that any of those conditions applies to the hazardous materials site shall provide the Administering Agency with that information and the Administering Agency shall, within 45 calendar days of receipt of the request, do all of the following:

- (A) Determine whether the condition is applicable.
- (B) If it is applicable, determine if further action at the site is warranted.
- (C) If further action is warranted, take further action at the site as may be necessary.

If the Administering Agency fails, or refuses, to act properly or in a timely manner, as required by this subdivision, the agency that provided the information to the Administering Agency may petition the Committee for review in accordance with Section 25265 (b).

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P. Review Of Agency Actions

By Responsible Party: The action of the Site Designation Committee to designate an Administering Agency is a final action and is not subject to further administrative or judicial review by anyone, including the Responsible Party. [HSC, section 25262(d)] The Responsible Party may, however, with the approval of the Administering Agency, terminate the designation. [HSC, section 25266]**By**

Responsible Party and/or Public: The Responsible Party and the public may appeal actions of the Administering Agency by following that agency's appeal process. The appeal processes of the Support Agencies are also available, but may not be effective, since the Administering Agency has sole jurisdiction over all activities that may be required to carry out a site investigation and remedial action necessary to respond to the hazardous materials release at the site. • [HSC, section 25264]

By Support Agencies: If at any time a Support Agency (1) asserts that the Administering Agency is not appropriately implementing applicable state and local laws, ordinances, regulations and standards, or (2) disagrees with the decision of the Administering Agency to issue a Certificate of Completion for a site, or (3) asserts a failure or refusal by the Administering Agency to take enforcement action pursuant to 25264 (d), the Support Agency may petition the Site Designation Committee under HSC, section 25265 to review these matters.

By Committee: Under HSC section 25265 (c), the Committee shall review petitions submitted pursuant to section 25265 (a) and make a decision within 30 calendar days of the date the petition is received. The Committee may grant or deny the petition. If the Committee finds that the Administering Agency is not properly implementing a state or local law, ordinance, regulation, or standard, the Committee will divest the Administering Agency of exclusive jurisdiction over the implementation of that law, ordinance, regulation, or standard and the jurisdiction shall revert to the Appropriate Agency. If the Committee finds that there are valid grounds for objecting to the issuance of a Certificate of Completion, the Committee will specify the actions that the Responsible Party and the Administering Agency must take before the Certificate of Completion may be issued. If the Committee finds that the Administering Agency is not taking proper enforcement action under HSC section 25264 (d), the Committee shall require the Administering Agency to take further action or designate another Administering Agency to take the necessary action.

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Q. Enforcement

The Administering Agency is responsible for enforcement related to the site investigation and remedial actions except as specified in HSC section 25265 (a) and as discussed above. The Site Designation Committee has the option to divest the Administering Agency of jurisdiction and return any permit and necessary enforcement to the appropriate agency.

All Agencies retain jurisdiction for enforcement of violations of statutes and regulations not related to the investigation and remedial action of hazardous materials at the site.

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R. Change Of Administering Agency

If, at any time, the Administering Agency determines that the Site Designation application and supporting information was inaccurate or incomplete and that new information would likely have resulted in the designation of a different Administering Agency, the Administering Agency may request the Site Designation Committee to review the original designation under HSC, section 25267. In response to such a request, the Committee may rescind the original designation and designate a different Administering Agency. Should such new information become available to the Administering Agency, the Administering Agency is responsible for sharing that information with all other Appropriate

Agencies.

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S. Termination Of Site Designation Process

The Responsible Party, with the approval of the Administering Agency, may terminate the application. As set forth in HSC 25266, the Administering Agency shall provide notification that the termination has occurred. The Responsible Party may not request the designation of another Administering Agency.

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T. References In Other Statutes

Relationship to the "Polanco Act"

The Polanco Redevelopment Act, HSC sections 33459 through 33459.8 (a part of the Community Redevelopment Act), was enacted to assist local redevelopment agencies in restoring brownfield properties in their redevelopment areas. It prescribes processes for redevelopment agencies to follow when cleaning up a hazardous substance release in a redevelopment project area. It also provides immunity from liability for redevelopment agencies and subsequent property purchasers for sites cleaned up under an approved cleanup plan. The Polanco Redevelopment Act has become a widely used tool by redevelopment agencies to guide and pursue redevelopment of brownfields properties.

Under HSC section 33459.1, a redevelopment agency may request oversight and approval of cleanup or remedial action plans from DTSC or a Regional Water Quality Control Board—a process unrelated to Site Designation. However, in order for a Local Agency to be the oversight agency (rather than DTSC or a Regional Water Quality Control Board), one of several options as specified in HSC section 33459.1(d) would need to be applicable or occur. Only one of these options involves the Site Designation Process. HSC section 33459.1(d)(1) provides that the Local Agency may be designated as the Administering Agency as defined by HSC 25262. In order for that to occur, the redevelopment agency, or other appropriate Responsible Party as defined by HSC section 25260, must submit an application and be designated by the Site Designation Committee. Additionally, a Local Agency may not be designated unless the Local Agency consents and indicates it has adequate staff resources and the requisite technical expertise and capabilities necessary to adequately supervise the remedial action.

Abandoned Mine Remediation

California Water Code Division 7, Chapter 5.7 addresses the remediation of abandoned mines. It establishes a process for public agencies, who are not otherwise responsible parties, to undertake remediation at abandoned mines without becoming responsible parties for the site. The "remediating agency" may submit a remediation plan to the "oversight agency" that addresses specific criteria. Upon approval by the "oversight agency" and implementation by the "remediating agency," the "remediating agency" will not be deemed to be a Responsible Party under state law for the site. In most cases the "oversight agency" is the State Water Resources Control Board. If the remediating agency is the State Water Resources Control Board, the oversight agency shall be the Site Designation Committee. In such cases, the remediating agency must submit its remediation plan to the Site Designation Committee according to the process specified in this Implementation

Guide.

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U. Attachments To The Implementation Guide

- [Statute](#)(Health and Safety Code, Division 20, Chapter 6.65, beginning with section 25260)
- [Checklist \(PDF\)](#) for Administering Agencies (7/11/00)
- Application form and instructions ([PDF](#))
- Standard resolution language ([PDF](#)) for the Site Designation Committee
- [Form letter](#) calling the first meeting of the Consultative Work Group
- Site Designation Status Report ([PDF](#)) or([MS, Word](#)) and instructions
- Sample Certificate of Completion ([MS Word](#))

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