

DTSC Funding Policy for Removal of Hazardous Materials from Emergency Response Incidents

EMERGENCY RESERVE ACCOUNT (ERA):

Health and Safety Code, Section 25354 provides a fund for the purpose of taking immediate corrective action necessary to remedy or prevent an emergency resulting from a fire, explosion, or human exposure to a release or threatened release of hazardous substances. This includes responding to "midnight dumping," uncontrolled or threatened releases of hazardous substances, spill situations involving an unknown responsible party, or an incident requiring stabilization or mitigation to prevent potential emergencies. **These funds can be accessed by contacting the DTSC Emergency Response Duty Officer.**

Note: Currently, DTSC will not fund cleanups or incidents for which a state or federal governmental agency is the responsible party or otherwise has jurisdictional responsibility, unless special circumstances exist, such as an immediate danger of fire or explosion or large scale threat to the environment. Health and Safety Code, Section 25353 prohibits use of funds from the Hazardous Substance Cleanup Fund (HSCF) for cleanups on property owned by federal or state agencies.

TO REQUEST STATE FUNDING:

State funding for off-highway removals of hazardous materials may be requested by local agencies such as local health, environmental health, fire, or law enforcement agencies. If you are a business, or a private citizen concerned about an emergency hazardous materials incident, or some abandoned hazardous materials, or if you have some similar concern about hazardous materials, you should contact one of the above-mentioned local government agencies in your area.

A local government agency wanting to request state funding during normal work hours (Monday-Friday, 8-5), should call the State Department of Toxic Substances Control (DTSC) at (800) 260-3972 or (916) 255-6504, and request to speak to the DTSC Emergency Response Duty Officer. After Hours, weekends, or on holidays, call the Governor's Office of Emergency Services' (OES) Warning Control Center at (800) 852-7550. Notify OES of the incident and of the fact that you are requesting state assistance for the cleanup. They will contact the DTSC Emergency Response Duty Officer who will then contact you.

INFORMATION REQUIRED

Before requesting assistance, you should:

- 1) Determine if the material(s) is a hazardous waste or hazardous substance.
- 2) Determine the quantity released, if any.

- 3) HAZCAT (perform hazard categorization tests) to identify or categorize the hazards presented by the substances. To qualify for state funding, the substance must exhibit at least one of the following characteristics:
 - Toxicity
 - Corrosivity (A pH of 12.5 or higher, or a pH of 2 or less)
 - Reactivity to air or water
 - Flammability
 - Explosivity
 - Have some other characteristic that makes it a serious hazard to human health or the environment.
- 4) Prepare an inventory, which includes the number of containers requiring removal, including how full the containers are, and the approximate quantity or surface area of contaminated soil, if any.
- 5) Determine the location of the incident relative to waterways, public access, and nearest population.
- 6) Determine whether the property is publicly or privately owned (areas under the control of Indian reservations or federal or state agencies may not be eligible for funding).
- 7) Gather any available information regarding the **responsible party (RP)**.
- 8) Determine whether the RP (if known) is able or willing to pay. Note: The RP (if known) **must** be contacted and informed of their responsibility to pay.
- 9) Determine that the incident would not be more appropriately handled and/or funded by another agency (See the Section entitled "Alternative Funding" below). If you are unsure or have questions about alternative funding sources contact the Emergency Response Duty Officer.

THE EMERGENCY RESPONSE DUTY OFFICER

The Emergency Response Duty Officer will evaluate the above information to determine if the incident is eligible for funding. If the incident qualifies for funding from the ERA:

- 1) The Emergency Response Duty Officer will contact and dispatch a contractor to perform the removal and disposal. **This is not a reimbursement program.** Do not contact a local contractor and dispatch them on your own. **If you do contact a contractor and request their services, your agency will be responsible for any costs incurred.**
- 2) The Emergency Response Duty Officer will establish the scope of work for the contractor. Any changes to the scope of work must be approved by the Emergency Response Duty Officer. DTSC will not pay for work that was not authorized by the Emergency Response Duty Officer.

- 3) The Emergency Response Duty Officer will provide you with an Emergency Response Expenditure Report (ERER) number, which must be on all documentation submitted to DTSC.
- 4) DTSC is not allowed to fund removals in situations that are not emergencies. The Emergency Response Duty Officer will only fund cleanup and disposal of those hazardous materials which meet one or more of the above funding criteria and pose a threat to human health or the environment. If it is not an emergency, or does not pose a serious threat to human health or the environment, the incident will not qualify for funding. If you are unsure whether a situation warrants funding, contact the Emergency Response Duty Officer and provide the required information. The Emergency Response Duty Officer will determine whether or not these funds can be utilized.
- 5) If the incident exceeds the resources available from DTSC, the Emergency Response Duty Officer will contact the U.S. Environmental Protection Agency and notify them of the incident and request assistance.
- 6) If technical assistance is needed from DTSC, the Emergency Response Duty Officer will contact the appropriate staff and coordinate their integration into the response. Although remedial measures do not qualify for funding, if your agency requires assistance in performing a remedial action at a hazardous waste site, the Emergency Response Duty Officer will assist in referring the request to the appropriate DTSC office.

The on-scene response personnel must attempt to identify the wastes involved by field testing (HAZCAT) or observation. If your agency cannot accomplish this task, the Emergency Response Duty Officer can assist, but may not be able to provide funding.

DOCUMENTATION

As a condition of receiving funding from the Emergency Reserve Account, the requesting agency is required to provide on-scene oversight, including documentation of removal actions. This includes filling out and signing the Emergency Response Incident Report (ERIR), and the Emergency Response Cleanup Work Log. The requesting agency must also sign the Hazardous Waste Manifest.

The ERIR, Cleanup Work Log, and any other documentation should be mailed to DTSC within 10 working days of the initial funding request. **All such information should be mailed to:**

**DTSC, Emergency Response Unit
P.O. Box 806
Sacramento, CA 95812**

NOTE: If These Reports and Supporting Documentation Are Not Submitted, Future Funding May Be Jeopardized.

SPECIAL POLICIES

ALTERNATIVE FUNDING

- If there has been a release to fish or wildlife habitat, call State OES at (800) 852-7550 and request assistance from the Department of Fish and Game from their Fish and Wildlife Pollution Account.
- If the incident is an oil spill, request assistance from the Department of Fish and Game Office of Oil Spill Prevention and Response from their Oil Spill Response Trust Fund by calling (916) 445-0045.
- If there has been a release to surface or ground water, request assistance from the State Water Resources Control Board (SWRCB) from their Water Pollution Cleanup and Abatement Account by calling (916) 327-4428 during normal work hours. After hours, call OES at (800) 852-7550 and request that they contact someone at the SWRCB.
- If the incident is on a state highway or within a state highway right-of-way, call State OES at (800) 852-7550 and request assistance from CALTRANS.
- If the incident involves radioactive materials, call OES at (800) 852-7550 and request that OES call the State Department of Health Services (DHS) Duty Officer who will then contact the DHS Radiologic Health Branch.

EPA IDENTIFICATION NUMBERS

The agency requesting funds for an emergency cleanup of hazardous wastes must include an EPA Identification (EPA ID) number on the manifest. Normally, the requesting agency will use the county Emergency EPA ID number. The Emergency Response Duty Officer can provide this number to on-scene personnel, if needed. If the responsible party is conducting the removal but needs an EPA ID number to manifest the waste, they may obtain a one-time EPA ID number by calling DTSC at (800) 618-6942 or (916) 255-1136 Monday - Friday 8AM - 5PM, or by calling US-EPA after hours at (415) 744-2000.

INNOCENT LANDOWNERS

In instances where hazardous materials have been abandoned on property where the owner is clearly not the perpetrator and the materials do not have an identifiable owner, state funding may be requested. The Emergency Response Duty Officer should be contacted to evaluate the need and availability of funding.

GUARANTEE OF PAYMENT

If the responsible party (RP) wants to pay for the cleanup, the RP may contact the HazMat contractor of their choice to arrange for the cleanup. However, many contractors are unwilling to perform cleanup/removal actions for private RPs without some proof of their ability to pay. In the middle of the night or on weekends, it is often not possible for RPs to provide that sort of proof. In such situations involving RPs that **are** willing to pay, the Duty Officer may guarantee payment so that the contractor will be paid if the RP fails to pay the invoice. **The Duty Officer will only do this if the RP agrees to use one of the DTSC zone contractors.**

EXCLUDED MATERIALS

The cleanup of the following materials involved in incidents will not be funded unless special circumstances exist which are determined by DTSC to represent a significant threat to human health or the environment (e.g., the presence of PCB's unless confirmed by laboratory analysis):

- Waste oil (the mere presence of chlorine is not enough to demonstrate the presence of PCBs)
- Diesel fuel
- Fuel tank spills from vehicular accidents
- Radioactive waste
- Infectious waste
- Latex paint
- Household size hazardous materials

RADIOACTIVE WASTE

DTSC does not handle radioactive materials. Radioactive wastes are handled by the State Department of Health Services Radiologic Health Branch. They should be contacted for assistance on an incident involving radioactive materials. They can be contacted Monday - Friday from 8AM - 5PM at (916) 445-0931 and after hours through OES.

INFECTIOUS WASTE

Infectious waste may be disposed of in ways other than at a Class I landfill. It is legal to discharge these wastes to the sewer or autoclave them. DTSC funding is not available for infectious waste.

GOVERNMENT LAND

Indian reservations and properties owned by the Federal Government or by the State of California may not be eligible for funding. The specific agency in control of the property will bear responsibility for the cleanup unless a clear emergency exists which the responsible agency is unable to address in a proper and timely manner. In remote areas or other instances where ownership is uncertain, the ERA may be used if a delay to verify ownership would create an endangerment.

ON-HIGHWAY SPILLS

Releases on state highways, or within state highway right-of-ways, will be handled by the California Department of Transportation (CALTRANS). Reports of such releases should be addressed to OES, who will in turn notify CALTRANS.