

68400.16 General Provisions

(a)

Any corrective action taken pursuant to this chapter shall be consistent with the corrective action provisions of Health and Safety Code, division 20, chapter 6.5 and its implementing regulations.

(b)

The nature, extent and scope of corrective action taken or required by this chapter shall be based upon the conditions at the site, the current and reasonably anticipated future land uses of the site and impacts and threatened impacts to waters of the state.

(c)

The responsible party shall implement corrective action beyond property boundaries, as necessary to address the breadth and depth of contamination caused by the release.

(d)

An UPA shall establish a corrective action process that fulfills all of the following conditions. A description of this process, and a list of all guidance documents the UPA used to develop this process, shall be submitted to the Department pursuant to section 68400.14(a)(3)(A). A qualified UPA's corrective action process shall provide: (1) opportunities for full and meaningful public involvement.(A) For a less complex site, public involvement shall include, but not be limited to,

providing the public with an agency contact's name, address, email, and phone number; distribution of fact sheets or other information regarding conditions at the site, if warranted given the level of interest expressed in the site; notification before decisions are made regarding corrective action at the site; and the opportunity to participate in decisions, submit comments and receive responses to comments before final UPA approval of activities at the site, such as a final corrective action plan or a certification of corrective action completion. (B) For all other corrective action, public involvement shall include, but not be limited to an assessment of community interest and preparation of a community profile; based on the level of community interest, distribution of fact sheets regarding conditions at the site; placement of a public notice in a local newspaper of general circulation announcing a 30-day comment period on a proposed corrective action plan; based on the level of community interest, a public meeting, if appropriate, to collect public comment on the proposed corrective action; a written response to public comments; and providing the public with an agency contact's name, address, email, and phone number. (2) a requirement for site screening using a preliminary endangerment assessment, performed as defined in Health and Safety Code section 25319.5. (3) a requirement for a site investigation that adequately evaluates and characterizes a release or threat of release at the site of hazardous waste or constituents and determines whether the release or threatened release poses an unreasonable risk to human health and safety or the environment. This investigation shall include, but not be limited to: (A) adequate characterization and documentation of the release or threat of release; (B) a risk assessment, where appropriate, that evaluates the risk posed by the release or threatened release; (C) if the release has affected groundwater, a reasonable characterization of underlying groundwater, including present and anticipated beneficial uses of

that water; and (D) if volatile organic compounds are present, a reasonable characterization and evaluation of risk associated with exposure to indoor air. (4) specification of corrective action that is protective of human health and the environment. Such corrective action shall attain final cleanup levels determined using a site-wide cumulative carcinogenic risk range of 10^{-4} to 10^{-6} and a site-wide cumulative systemic toxicity, including sensitive subgroups, health hazard index of <1 , unless lower concentrations are necessary to protect ecological receptors or meet applicable water quality objectives in applicable water quality control plans, as determined by a water quality assessment that evaluates whether constituents are migrating to waters of the state and meet state policies for water quality adopted pursuant to Article 3 (commencing with section 13140) of Chapter 3 of Division 7 of the Water Code. The 10^{-6} carcinogenic risk level shall be used as a point of departure in establishing cleanup levels for known or suspected carcinogens. Under these conditions, final cleanup levels shall be based upon the following: (A) Background or non-detectable concentrations, or (B) Site-specific cleanup levels based on a risk assessment(s), which may include a human health risk assessment and/or an ecological risk assessment, as needed, if the following requirements are met: 1. the risk assessment approach is approved by the Department. To be approved, the risk assessment approach shall meet the following criteria: evaluate exposure to all chemicals present at the site from all sources at the site, and evaluate that exposure for all affected and potentially affected human populations, considering all affected media at the site and all pathways appropriate for the site. The pathways shall be approved by the UPA and shall be based on the contaminants present at the site, the media contaminated, fate and transport of the contaminants through the environment, the routes of exposure and the receptors.

2. The ecological risk assessment shall consider species representing the ecosystems present or potentially present at the site. It shall consider the fate and transport of the contaminants present at the site, including movement through the food web. (5) adequate resources and oversight to ensure that corrective action is conducted in an appropriate and timely manner and that technical assistance and streamlined procedures, when appropriate, are available. (6) mechanisms for written documentation of screening, investigation, and selection of corrective action, the written approval of corrective action plans; and a certification of similar documentation indicating that corrective action is complete. (7) enforcement of the completion of corrective action if the responsible party fails to complete the necessary corrective action, including operation and maintenance or long-term monitoring. (8) a requirement for financial assurance for corrective action implementation, operation, maintenance and monitoring, if implementation of corrective action is scheduled to take more than one year or if long-term maintenance or monitoring of corrective action is required. (A) Financial assurance mechanisms shall be consistent with the provisions in section 66264.143, and shall be reviewed and approved by the UPA. (B) Financial assurance mechanisms that may be used to fulfill this section include a trust fund; a surety bond guaranteeing payment into a trust fund; a surety bond guaranteeing performance of corrective action implementation, operation, maintenance and monitoring; a letter of credit; insurance; or a financial test and guarantee. (9) a requirement for a land use control that imposes appropriate conditions, restrictions and obligations on land use or activities if, after completion of the corrective action, a hazardous waste or constituents remain at the site at a level that is not suitable for unrestricted land use. (A) The UPA shall notify the local land use planning authority in which any site is located that corrective action

has been proposed. The UPA shall provide the local land use planning authority with notice of the time, date, and place of all public meetings regarding the corrective action and shall involve the local land use planning authority in any deliberation concerning land use conditions or actions. The UPA shall request the local land use planning authority to provide the UPA with the local land use planning authority's assessment of the planned use of the site, including the current and future zoning and general plan designations for the site and the local land use planning authority's determination regarding the appropriate planned use designation in the corrective action plan prepared for the site. (B) Any land use condition shall be executed by the owner of the land, shall run with the land, and is binding upon all of the owners of the land, their heirs, successors and assignees, and their agents, employees or lessees. All executed land use conditions shall be recorded by the site owner in the county in which the site is located within ten days of execution. The site owner shall provide the UPA with a copy of the land use conditions, which have been appropriately recorded. (C) If a corrective action plan requires the use of a land use control, the UPA shall not certify that the corrective action is complete until the UPA receives a certified copy of the recorded land use control.

(1)

opportunities for full and meaningful public involvement.(A) For a less complex site, public involvement shall include, but not be limited to, providing the public with an agency contact's name, address, email, and phone number; distribution of fact sheets or other information regarding conditions at the site, if warranted given the level of interest expressed in the site; notification before decisions are made regarding corrective action at the site; and the opportunity to participate in decisions, submit comments and receive responses to comments before final UPA approval of activities

at the site, such as a final corrective action plan or a certification of corrective action completion. (B) For all other corrective action, public involvement shall include, but not be limited to an assessment of community interest and preparation of a community profile; based on the level of community interest, distribution of fact sheets regarding conditions at the site; placement of a public notice in a local newspaper of general circulation announcing a 30-day comment period on a proposed corrective action plan; based on the level of community interest, a public meeting, if appropriate, to collect public comment on the proposed corrective action; a written response to public comments; and providing the public with an agency contact's name, address, email, and phone number.

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(B)

For all other corrective action, public involvement shall include, but not be limited to an assessment of community interest and preparation of a community profile; based on the level of community interest, distribution of fact sheets regarding conditions at the site; placement of a public notice in a local newspaper of general circulation announcing a 30-day comment period on a proposed corrective action plan; based on the level of community interest, a public meeting, if appropriate, to collect public comment on the proposed corrective action; a written response to public comments; and providing the public with an

agency contact's name, address, email, and phone number.

(2)

a requirement for site screening using a preliminary endangerment assessment, performed as defined in Health and Safety Code section 25319.5.

(3)

a requirement for a site investigation that adequately evaluates and characterizes a release or threat of release at the site of hazardous waste or constituents and determines whether the release or threatened release poses an unreasonable risk to human health and safety or the environment. This investigation shall include, but not be limited to: (A) adequate characterization and documentation of the release or threat of release; (B) a risk assessment, where appropriate, that evaluates the risk posed by the release or threatened release; (C) if the release has affected groundwater, a reasonable characterization of underlying groundwater, including present and anticipated beneficial uses of that water; and (D) if volatile organic compounds are present, a reasonable characterization and evaluation of risk associated with exposure to indoor air.

(A)

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(B)

a risk assessment, where appropriate, that evaluates the risk posed by the release or threatened release;

(C)

if the release has affected groundwater, a reasonable characterization of underlying groundwater, including present and anticipated beneficial uses of that water; and

(D)

if volatile organic compounds are present, a reasonable characterization and evaluation of

risk associated with exposure to indoor air.

(4)

specification of corrective action that is protective of human health and the environment. Such corrective action shall attain final cleanup levels determined using a site-wide cumulative carcinogenic risk range of 10^{-4} to 10^{-6} and a site-wide cumulative systemic toxicity, including sensitive subgroups, health hazard index of <1 , unless lower concentrations are necessary to protect ecological receptors or meet applicable water quality objectives in applicable water quality control plans, as determined by a water quality assessment that evaluates whether constituents are migrating to waters of the state and meet state policies for water quality adopted pursuant to Article 3 (commencing with section 13140) of Chapter 3 of Division 7 of the Water Code. The 10^{-6} carcinogenic risk level shall be used as a point of departure in establishing cleanup levels for known or suspected carcinogens. Under these conditions, final cleanup levels shall be based upon the following: (A) Background or non-detectable concentrations, or (B) Site-specific cleanup levels based on a risk assessment(s), which may include a human health risk assessment and/or an ecological risk assessment, as needed, if the following requirements are met: 1. the risk assessment approach is approved by the Department. To be approved, the risk assessment approach shall meet the following criteria: evaluate exposure to all chemicals present at the site from all sources at the site, and evaluate that exposure for all affected and potentially affected human populations, considering all affected media at the site and all pathways appropriate for the site. The pathways shall be approved by the UPA and shall be based on the contaminants present at the site, the media contaminated, fate and transport of the contaminants through the environment, the routes of exposure and the receptors. 2. The ecological risk assessment shall consider species representing the ecosystems present or potentially present at the site.

It shall consider the fate and transport of the contaminants present at the site, including movement through the food web.

(A)

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(B)

Site-specific cleanup levels based on a risk assessment(s), which may include a human health risk assessment and/or an ecological risk assessment, as needed, if the following requirements are met: 1. the risk assessment approach is approved by the Department. To be approved, the risk assessment approach shall meet the following criteria: evaluate exposure to all chemicals present at the site from all sources at the site, and evaluate that exposure for all affected and potentially affected human populations, considering all affected media at the site and all pathways appropriate for the site. The pathways shall be approved by the UPA and shall be based on the contaminants present at the site, the media contaminated, fate and transport of the contaminants through the environment, the routes of exposure and the receptors. 2. The ecological risk assessment shall consider species representing the ecosystems present or potentially present at the site. It shall consider the fate and transport of the contaminants present at the site, including movement through the food web.

1.

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2.

The ecological risk assessment shall consider species representing the ecosystems present or potentially present at the site. It shall consider the fate and transport of the contaminants present at the site, including movement through the food web.

(5)

adequate resources and oversight to ensure that corrective action is conducted in an appropriate and timely manner and that technical assistance and streamlined procedures, when appropriate, are available.

(6)

mechanisms for written documentation of screening, investigation, and selection of corrective action, the written approval of corrective action plans; and a certification of similar documentation indicating that corrective action is complete.

(7)

enforcement of the completion of corrective action if the responsible party fails to complete the necessary corrective action, including operation and maintenance or long-term monitoring.

(8)

a requirement for financial assurance for corrective action implementation, operation, maintenance and monitoring, if implementation of corrective action is scheduled to take more than one year or if long-term maintenance or monitoring of corrective action is required.(A) Financial assurance mechanisms shall be consistent with the provisions in section 66264.143, and shall be reviewed and approved by the UPA. (B) Financial assurance mechanisms that may be used to fulfill this section include a trust fund; a surety bond guaranteeing payment into a trust fund; a surety bond guaranteeing performance of corrective action implementation, operation, maintenance and monitoring; a letter of credit; insurance; or a financial test and guarantee.

(A)

Financial assurance mechanisms shall be consistent with the provisions in section 66264.143, and shall be reviewed and approved by the UPA.

(B)

Financial assurance mechanisms that may be used to fulfill this section include a trust fund; a surety bond guaranteeing payment into a trust fund; a surety bond guaranteeing performance of corrective action implementation, operation, maintenance and monitoring; a letter of credit; insurance; or a financial test and guarantee.

(9)

a requirement for a land use control that imposes appropriate conditions, restrictions and obligations on land use or activities if, after completion of the corrective action, a hazardous waste or constituents remain at the site at a level that is not suitable for unrestricted land use. (A) The UPA shall notify the local land use planning authority in which any site is located that corrective action has been proposed. The UPA shall provide the local land use planning authority with notice of the time, date, and place of all public meetings regarding the corrective action and shall involve the local land use planning authority in any deliberation concerning land use conditions or actions. The UPA shall request the local land use planning authority to provide the UPA with the local land use planning authority's assessment of the planned use of the site, including the current and future zoning and general plan designations for the site and the local land use planning authority's determination regarding the appropriate planned use designation in the corrective action plan prepared for the site. (B) Any land use condition shall be executed by the owner of the land, shall run with the land, and is binding upon all of the owners of the land, their heirs, successors and assignees, and their agents, employees or lessees. All executed land use conditions shall be recorded by the site owner in the county in which the site is located within ten days of execution.

The site owner shall provide the UPA with a copy of the land use conditions, which have been appropriately recorded. (C) If a corrective action plan requires the use of a land use control, the UPA shall not certify that the corrective action is complete until the UPA receives a certified copy of the recorded land use control.

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(B)

Any land use condition shall be executed by the owner of the land, shall run with the land, and is binding upon all of the owners of the land, their heirs, successors and assignees, and their agents, employees or lessees. All executed land use conditions shall be recorded by the site owner in the county in which the site is located within ten days of execution. The site owner shall provide the UPA with a copy of the land use conditions, which have been appropriately recorded.

(C)

If a corrective action plan requires the use of a land use control, the UPA shall not certify that the corrective action is complete until the UPA receives a certified copy of the recorded land use control.

(e)

Any corrective action taken pursuant to this chapter shall be consistent with all applicable regulations adopted by the State Water Resources Control Board, all applicable water quality control plans adopted pursuant to section 13170 of the Water Code and Article 3 (commencing with section 13240) of Chapter 4 of Division 7 of the Water Code, and all applicable state policies for water quality control adopted pursuant to Article 3 (commencing with section 13140) of Chapter 3 of Division 7 of the Water Code, to the extent the administering agency determines that those regulations, plans, and policies are not less stringent than this chapter.