2025 CALIFORNIA LAND RECYCLING CONFERENCE TRANSFORMING LAND, EMPOWERING COMMUNITIES

Regulatory Waze: Navigating Oversight in California's Complex Maze

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What to Expect on Voluntary Projects



KEY POINT: AGENCIES

FOLLOW AN ESTABLISHED

ENVIRONMENTAL

ASSESSMENT PROCESS.

Part 1: What Project/What Setting?

- Project
 - Housing (what kind)
 - Commercial
 - Industrial
 - Other (park/open space; community-serving, etc.)
- Setting
 - Bayfront/foothills (depth to groundwater)
 - The neighborhood
 - Who will be driving the bus?
 - Who will love/hate the bus?





AGENCIES FOLLOW

AN ESTABLISHED

ENVIRONMENTAL

ASSESSMENT

PROCESS.

KEY POINT: PROJECT AND SETTING DRIVE REGULATORY REQUIREMENTS.





Part 2: Time & Schedule

- The initial vision, including entitlement Processing
- Data collection/CSM refinement
- Remedy development
- Regulatory dialogue
- Public input: stand-alone or part of CEQA/entitlements



KEY POINTS:

THIS IS A SEVERAL YEAR PROCESS. PLANNING AND ASSESSMENT SHOULD START
IMMEDIATELY. APPLY FOR OVERSIGHT DURING CSM REFINEMENT, BEFORE IN DEPTH
REMEDIAL PLANNING OR IMPLEMENTATION





Part 3: Where Are We On Technical Issues?

- What do we already know
- Data gaps
 - Known unknowns
 - Unknown unknowns
- What's our CSM (Conceptual Site Model)
- How solid/stable Is the CSM



AGENCIES FOLLOW

AN ESTABLISHED

ENVIRONMENTAL

ASSESSMENT

PROCESS.



KEY POINT: GOOD SITE CHARACTERIZATION, ASAP, IS CRITICAL





Part 4: Is The "Project" Part Of The "Remedy"?

- Soil excavation underground parking or geotechnical
- Podium parking
- Ground level retail
- Foundation as cap
- Dewatering shallow groundwater



KEY POINT:

PROJECT DESIGN AND ENGINEERING MAY BE
ABLE TO INTEGRATE CLEAN UP AND
DEVELOPMENT





Part 5: Common Pressure Points

- Regulatory process vs development schedule
- Costs
- Investigation requirements/CSM development
- Screening levels as cleanup standards
- Off-site contamination
- Inability to achieve "closure"
- Post-occupancy O&M requirements



KEY POINTS:

AGENCIES ARE PROCESS DRIVEN, NOT SCHEDULE SENSITIVE.





Part 6: Managing Expectations

- Regulatory engagement and support
- Lender requirements
- Public/gov't funding
- Schedule funding/tax deadlines/requirements
- Closure/NFA before occupancy





KEY POINT:

PROPONENT EXPECTATIONS VARY — IT IS CRITICAL TO PLAN AND MANAGE THE ANTICIPATED REGULATORY REQUIREMENTS.





Part 7: What To Expect From Agency Oversight

- A science project
- Public comment
- Tribal review
- A deed restriction
- Lengthy monitoring requirements
- VIMs including O&M
- 30-Year cost estimates and bonds
- 5-Year Reviews



KEY POINT:

NFA FOR UNRESTRICTED LAND USE GENERALLY UNACHIEVABLE. POST-CLOSURE REQUIREMENTS TYPICAL.





The Regulatory Maze

The California Environmental Regulatory Structure



DEPARTMENTS











LOCAL AGENCIES UNDER AB 304







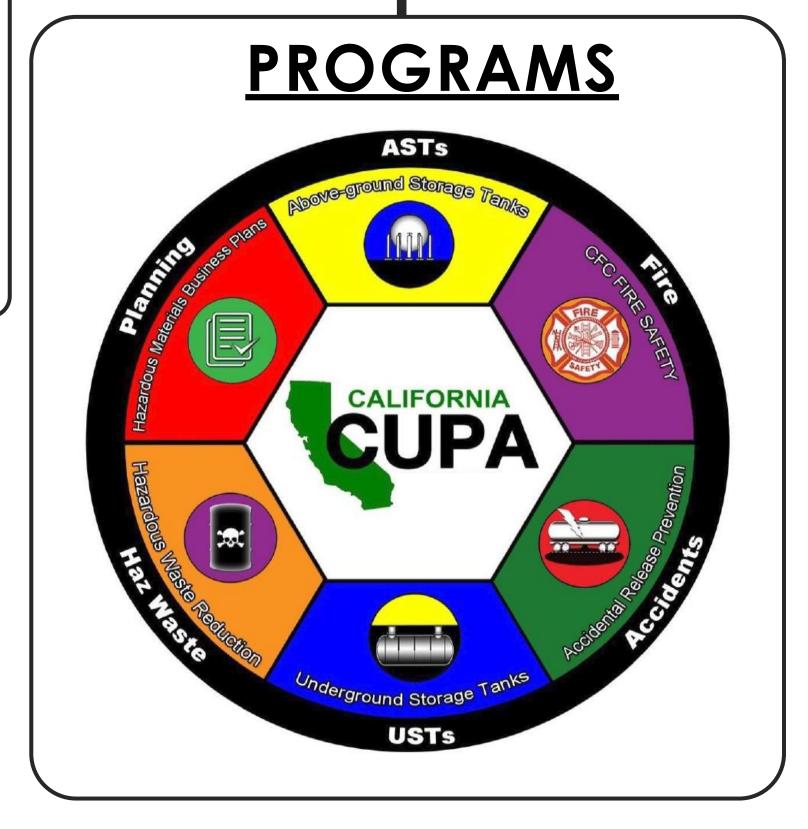












What are the State Agency options?





What are the AB304 Local Agency options?















San Francisco **Public Health**



ENVIRONMENTAL MANAGEMENT DEPARMENT





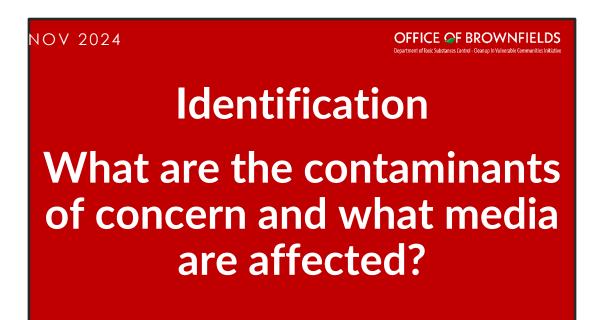






- ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH
- LOS ANGELES COUNTY FIRE DEPARTMENT, HEALTH & HAZARDOUS MATERIALS DIVISION
- CITY OF VERNON (LOS ANGELES COUNTY)
- ORANGE COUNTY HEALTH CARE AGENCY
- RIVERSIDE COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH
- SAN FRANCISCO CITY & COUNTY DEPARTMENT OF PUBLIC HEALTH
- SACRAMENTO COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT
- SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, HAZARDOUS MATERIALS SECTION 8.
- SAN DIEGO COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH & QUALITY
- SAN JOAQUIN COUNTY ENVIRONMENTAL HEALTH DEPARTMENT
- SAN MATEO COUNTY GROUNDWATER PROTECTION PROGRAM
- SANTA BARBARA COUNTY PUBLIC HEALTH DEPARTMENT, ENVIRONMENTAL HEALTH SERVICES DIVISION
- SANTA CLARA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH
- SANTA CRUZ COUNTY ENVIRONMENTAL HEALTH DIVISION

What Are All Agencies Looking For?



Delineation

How deep and widespread is the contamination?

Source

What are the on and off-site sources of contamination?



Risk
What ecological receptors are being exposed and are they safe?

Off-site Impacts

Has contamination migrated and is it impacting neighbors?

Collaboration

How can we work together to achieve health, safety, and reuse?

Long-term Protection

How will the site continue
to remain safe and
protective in perpetuity?

What needs to be done to address the contamination source and make sure that exposure is eliminated or mitigated?

COMMUNITY
ENGAGEMENT
HOW WILL YOU
HELP PEOPLE
UNDERSTAND
WHAT YOU ARE
DOING IN THEIR
COMMUNITY?

OFFICE OF BROWNFIELDS

Department of Toxic Substances Control · Cleanup In Vulnerable Communities Initiative

NOV 2024

Why AB 304 Local Agencies?

- Possibly faster than State agencies
- Lower oversight fees
- Agreement startup quicker
- ~12 to 18+ months for investigation and cleanup
- May not require CEQA, public participation or tribal engagement
- May not require financial assurance



Why the Regional Boards?

- UST/petroleum only contamination
- Primary impact to groundwater
- Lower oversight costs than DTSC
- Order takes few weeks to setup
- ~12 to 24+ months for investigation and cleanup
- Reliance on OEHHA
- Nominal CEQA, public participation or tribal engagement requirements
- PMs manage reviews
- No financial set aside for O&M
- Several months for liability relief agreements



Why DTSC?

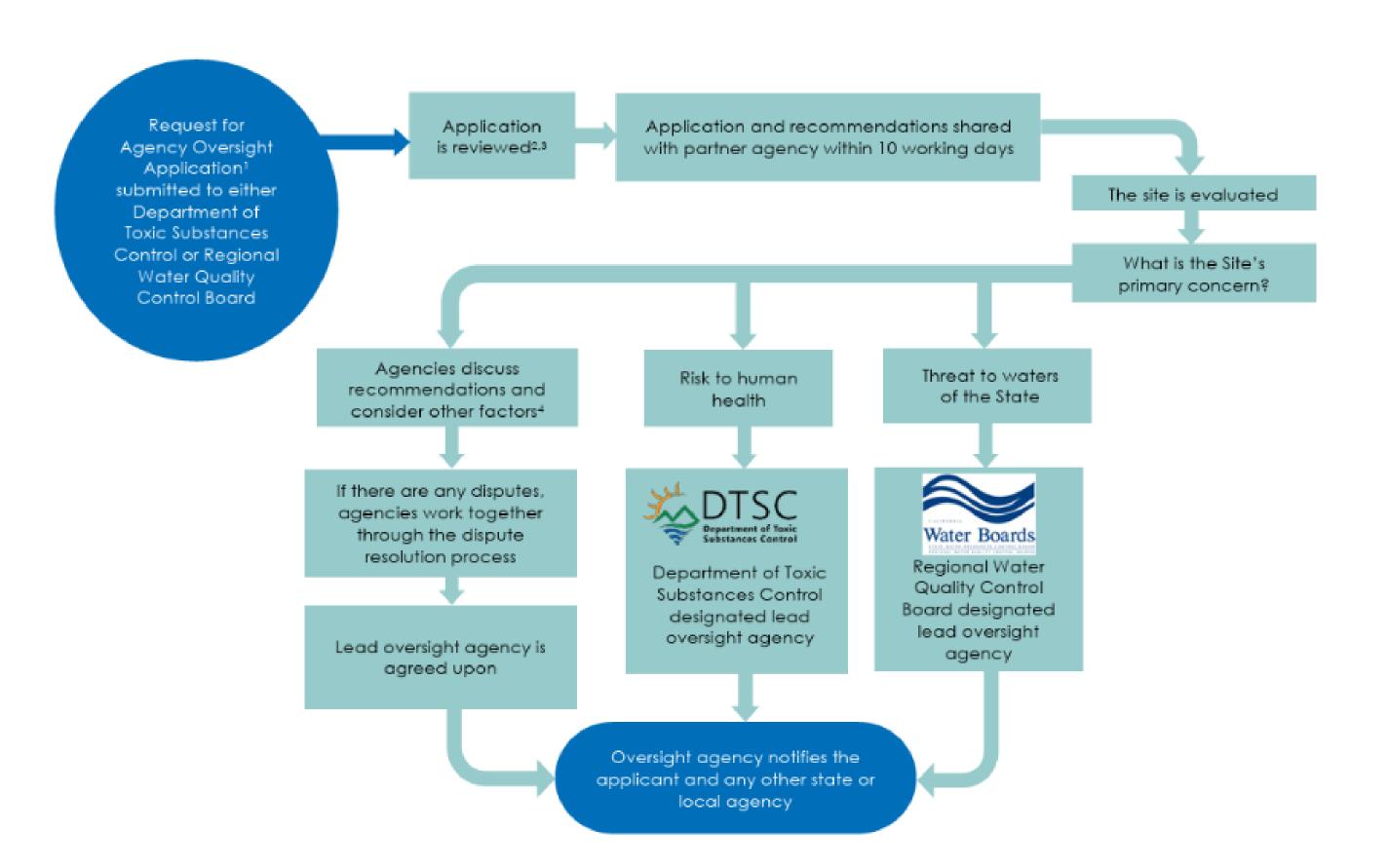
- Primary impact is human health or ecological
- Robust public participation for cleanup
- PM + geologist, toxicologist and engineers
- Risk-based decisions
- Expensive per hour charges
- Agreement startup varies based on type
- Community interest
- Risk based decisions
- Seeking limited liability protections
- ~12 to 18+ months for investigation and cleanup



How do DTSC and the Regional Boards Decide Lead Agency?



Lead Agency Determination Flow Chart



- DETERMINATION IN 10 DAYS
- DOES NOT APPLY TO EXISTING AGENCY WORK
- EXPERTISE
- REGULATORY MECHANISMS
- PREVIOUS INVOLVEMENT
- NEARBY INVOLVEMENT
- LAND REUSE PLANS
- STAFF CAPACITY

What are the DTSC Voluntary Agreement Types?

DTSC Voluntary Agreements

Standard Voluntary Agreement

California Land Reuse and Revitalization Act Agreement

Prospective Purchaser Agreement

Gatto Act Agreements for Local Governments

All follow the same general process

DTSC's Voluntary Agreements - Assessment & Cleanup Process Quick Reference Guide

Agreement

- Standard Voluntary Agreement
- California Land Reuse and Revitalization Act Agreement
- Prospective Purchaser Agreement
- Agreement for Local Agencies

Scoping Meetings

- During negotiation or shortly after agreement execution execution for new projects
- For existing projects, before submitting any plans or report for review
- Establishes strong working relationship between DTSC, the Proponent, and the environmental consultant.

Assessment & Investigation

- Preliminary
 Endangerment
 Assessment (PEA)
- Supplemental Site Investigation
- Remedial Investigation
- Report of Findings
 - POSSIBLE END POINT

Cleanup Planning

- Feasibility Study
 Removal Action
- Work Plan
 e Remedial
 - Action Plan
 - Response Plan
 Pilot Tests

Cleanup Implementation

- Removal Action Implementation
- Remedial Design
- Remedial Action Implementation
- Response Plan Implementation

Certification & Stewardship

- · No Further Action
- Certificate of Completion
- Land Use Covenant
- Operation and Maintenance
- Financial Assurance
- Five-Year Review



- Public Comment Period
- California Environmental Quality Act

Public Participation Activities (as needed)

Tribal Consultation (as needed)

Possible End Points:

- Based on site evaluation, projects may conclude without need for any further action;
- Based on site evaluation, projects may conclude with the need for a Land Use Covenant, in which case a public notice process will be implemented through a Preliminary Endangerment Assessment, Report of Findings, or equivalent documents; and,
- Cleanups may either be conducted to unrestricted land use levels, or may require long term stewardship.

VERSION: SEP-25

Why Standard Voluntary Agreements?

- H&SC 79055(a)(1)(C)
- Most common
- Currently ~366 active SVAs
- Multi-site option available
- Formerly voluntary cleanup agreement
- Owners, operators, buyers
- About a month to enter into agreement

STATE OF CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

19145 Gramercy Place 19145 Gramercy Place Torrance, California 90501

Proponent:

Alpine Electronics of America, Inc. 2341 Derby Street Berkley, California 94705 Docket No. HSA-FY20/21-011

Standard Voluntary Agreement

Health and Safety Code Section 25355.5(a)(1)(C)

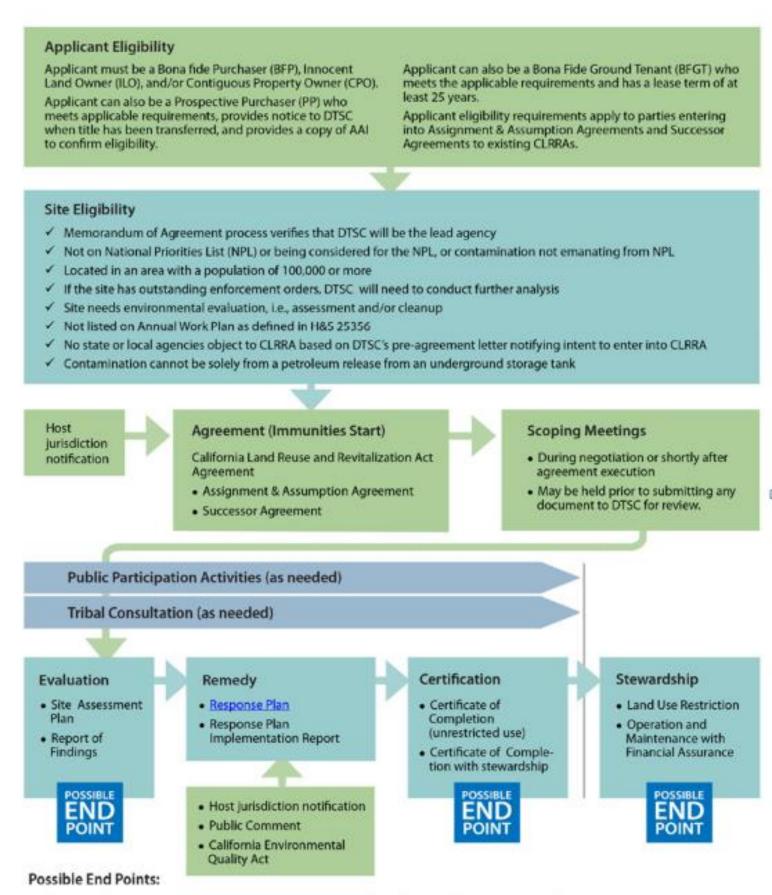
The California Department of Toxic Substances Control (DTSC) and Alpine Electronics of America, Inc. (Proponent) enter into this Standard Voluntary Agreement (Agreement) and agree as follows:

- Site. This Agreement applies to the site located at 19145 Gramercy Place in
 the City of Torrance, Los Angeles County, California 90501 (Site), identified by Los
 Angeles County Assessor's Parcel Number 7352-016-030, and any off-site area to
 which hazardous substances have or may have migrated from the Site. The Site is
 approximately 5.5 acres in size and is bordered by Gramercy Place to the east, Sanrio,
 Incorporated to the north, Mayekawa USA to the south, and Sequoia Commerce Center
 to the west. The Site includes one approximately 116,000-square-foot
 commercial/industrial building that was constructed in 1982, which is currently vacant.
 The Site is predominantly paved for parking usage, with some landscaped portions.
 Past uses by the Proponent include offices, product warehousing, engineering,
 marketing, research, and design. Previously, the Site was occupied by Bethlehem
 Pacific-Steel Fabrication. A Site location map and a Site diagram are attached as
 Exhibits A and B.
- Jurisdiction. This Agreement is entered into by DTSC and Proponent pursuant to Health and Safety Code section 25355.5(a)(1)(C), which authorizes DTSC to enter into an enforceable agreement to oversee investigation and/or remediation of a release or a threatened release of any hazardous substance at or from the Site.
 - Purpose. The purpose of this Agreement is for Proponent to investigate,

Brandard Valuatory Approvers Medial Bookeritor 25, 2016

Why California Land Use and Revitalization Act Agreements?

- H&SC 25395.60 25395.109
- Since 2005 Happy Birthday!
- Currently ~53 active CLRRAs
- CERCLA liability defense aka All Appropriate Inquiries (AAI)
- Beneficial reuse
- Urban area
- No active orders
- Contamination is not solely petroleum
- Immunities attach at agreement
- Immunity can be transferred
- 1-3 months to enter into agreement



- 1. Based on site assessment results, projects may conclude without the need for any further action;
- based on assessment results, projects may conclude with only a Land Use Covenant, in which case a public notice process will be implemented via a Report of Findings; and,
- Cleanup may either be conducted to unrestricted land use or require long-term stewardship.

Why Prospective <u>Purchaser Agreements?</u>

- Policy and Procedure EO-96-005-PP
- Currently ~5 active PPAs
- CERCLA liability defense aka AAI
- Substantial benefits for the State
- Contamination not solely petroleum
- DTSC covenant not to sue
- Public notice prior to agreement
- Notice to potential responsible parties prior to agreement
- 4 6 months to get into agreement



FACT SHEET

California Environmental Protection Agency DEPARTMENT OF TOXIC SUBSTANCES CONTROL



PROSPECTIVE PURCHASER POLICY

April 1998 (Revised 5/01)

Many communities contain abandoned or underutilized properties that are contaminated or thought to be contaminated, which have not been redeveloped due to concerns about the perceived cost of remediation and liability. These properties are commonly known as "Brownfields." When industrial and commercial facilities are built on "Greenfields" (land with no previous commercial or industrial use), roads, sewers, schools, residences and other infrastructure must be developed, and new units of government created to levy the taxes to pay for them. Redundant infrastructure not only wastes scarce tax dollars, it adds to the burden on the environment. Redevelopment of Brownfields properties represents an optimal alternative and is a critical factor in ensuring renewed prosperity in California.

The Department of Toxic Substances Control (DTSC) has developed a number of tools for addressing Brownfields. More specific information on this subject can be obtained by reading "Redevelopment and Revitalization of Brownfields, Department of Toxic Substances Control Initiatives," an article authored by Barbara Coler and Steve Koyasako, dated October 1995, and "August 1996 Update" by Barbara Coler. Both articles are available from DTSC.

To address some of the major Brownfields issues and remove or lessen the liability that prospective purchasers face. DTSC has developed a Prospective Purchaser Policy. This policy and procedure discusses how to enter into a Prospective Purchaser Agreement (PPA), includes a model Prospective Purchaser Agreement (which includes a covenant not to sue) and an application form, and outlines eligibility criteria. The process has been streamlined to reduce negotiation and DTSC review time, lower transaction costs, ensure statewide consistency, and promote compliance with current settlement practices and procedures.

As a matter of general policy, DTSC will not pursue site mitigation enforcement against prospective purchasers/ tenants/lessors who become site owners or operators if all of the following conditions are met:

- they do not exacerbate or contribute to the existing contamination;
- their operation will not result in health risks to persons on the site:

- they are not a responsible party (or affiliate of a responsible party) with respect to the existing contamination;
- they allow access for, and do not interfere with, remediation activities;
- unauthorized disposal is not occurring on the site; and
- there are other viable responsible parties who are willing to conduct any necessary remediation.

DTSC also recommends that prospective purchasers do not engage in activities which require use of substances of concern at the site to ensure that no question would arise regarding any contribution to, or exacerbation of, the existing contamination. Generally, DTSC does not participate in private real estate transactions. However, DTSC will consider entering into an agreement with a bona fide prospective purchaser if it will result in substantial benefits for the State, if remediation would not otherwise be conducted without agency action, and if the prospective purchaser satisfies the eligibility criteria stated below.

DTSC acknowledges that a PPA with prospective purchaser of contaminated property, given appropriate safeguards, may result in an environmental benefit through a commitment to perform response actions. Additionally, PPAs can benefit the affected community, or the State as a whole, by encouraging the reuse of properties where the perceived liability may pose a barrier. A critical factor for determining eligibility for a PPA is that the prospective purchaser must establish with DTSC the project benefits to the public in terms of job creation, an increased tax base, and/or opportunities for disadvantaged groups.

All the following criteria will be considered before DTSC contemplates entering into a PPA. These criteria are intended to reflect DTSC's commitment to removing the barriers to proposed redevelopment of property imposed by potential liability, while ensuring the protection of public health and the environment.

Gatto Act Agreements for Local Governments

- H&SC 25403 the Gatto Act
- Currently ~2 active
- Local government agencies
- Successors to redevelopment agencies
- CERCLA liability defense aka AAI
- No active orders
- Polanco Act like protections
- Immunities upon cleanup
- 1-3 months to enter into agreement

OFFICE OF BROWNFIELDS

Local Agency Agreement Quick Reference Guide

DTSC's Local Agency Agreement is a voluntary agreement intended to encourage local agencies and municipalities to alleviate blight by obtaining Polanco-like protections for cleaning up environmental contamination. When the California Redevelopment Agencies were dissolved in 2012, local municipalities lost the expertise, resources and Polanco Act protections that were vital to facilitate redevelopment of contaminated properties. DTSC has developed the Local Agency Agreement in accordance with Assembly Bill 440, the Gatto Act, as a tool that any eligible agency can utilize to obtain immunities, pursuant to Health and Safety Code Section 25403.2, for cleanups conducted under DTSC

The Local Agency Agreement is structured to foster a collaborative relationship with DTSC, allowing a local agency to receive DTSC oversight for multiple properties under the framework of a single agreement. After a Local Agency Agreement is executed, a local agency can easily add additional sites to the agreement by providing additional exhibits and obtaining approval from DTSC. Upon implementation of an approved cleanup plan, statutory immunities will attach.

Site Eligibility:

The typical content of the Work Plan

- Site must be within the local agency's boundaries and in an area the local agency has deemed a blighted area due to the presence of hazardous materials
- Local agency does not have to own the site but must be leading the investigation and cleanup
- Local agency cannot be a responsible party under CERCLA
- Site cannot have an active order, a Chapter 6.5 permit, or be on the National Priorities List
- Existing voluntary agreements can be transitioned to a Local Agency Agreement
- If CLRRA or PPA parties are involved, you must contact DTSC

Benefits of Local Agency Agreement:

Similar to the previous Polanco Redevelopment Act, the local agency will be eligible for immunities described in Health and Safety Code Section 25403.2 upon implementation of an approved cleanup plan. This includes:

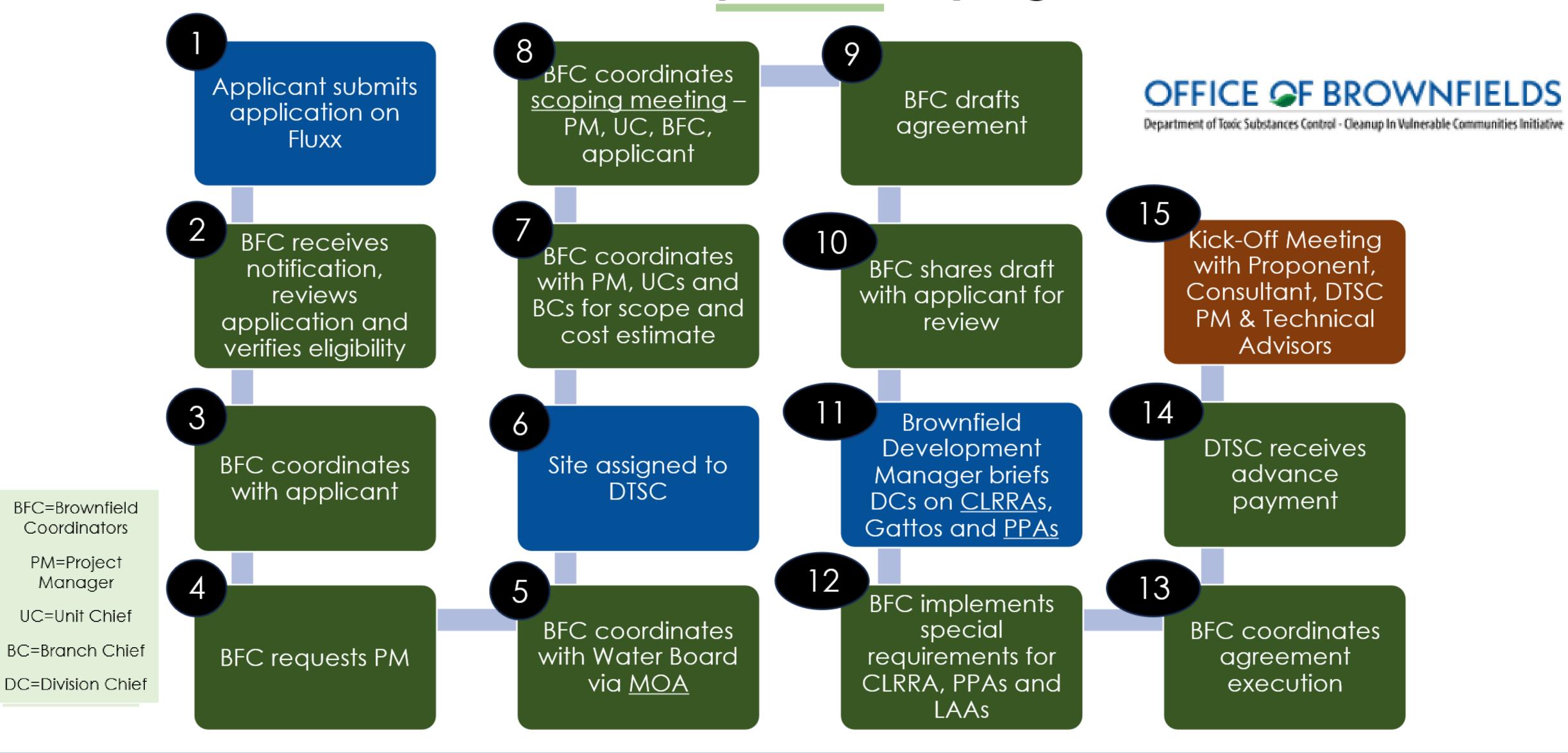
- Division 7 (commencing with Section 13000) of the Water Code.
- Chapter 6.5 (commencing with Section 25100)
- Chapter 6.7 (commencing with Section 25280)
- Chapter 6.75 (commencing with Section 25299.10)
- Chapter 6.8 (commencing with Section 25300), of Division 20
- Any other state or local law imposing liability for cleanup of releases of hazardous materials

Contact Maryam Tasnif-Abbasi, Office of Brownfields, for more information regarding entering into a Local Agency Oversight Agreement. You may also find your DTSC Region and local Brownfield Coordinator online on the DTSC Brownfield Contact Webpage.

March 2021

How does DTSC make decisions?

How do we set up voluntary agreements?



Why are scoping meetings important?

When?

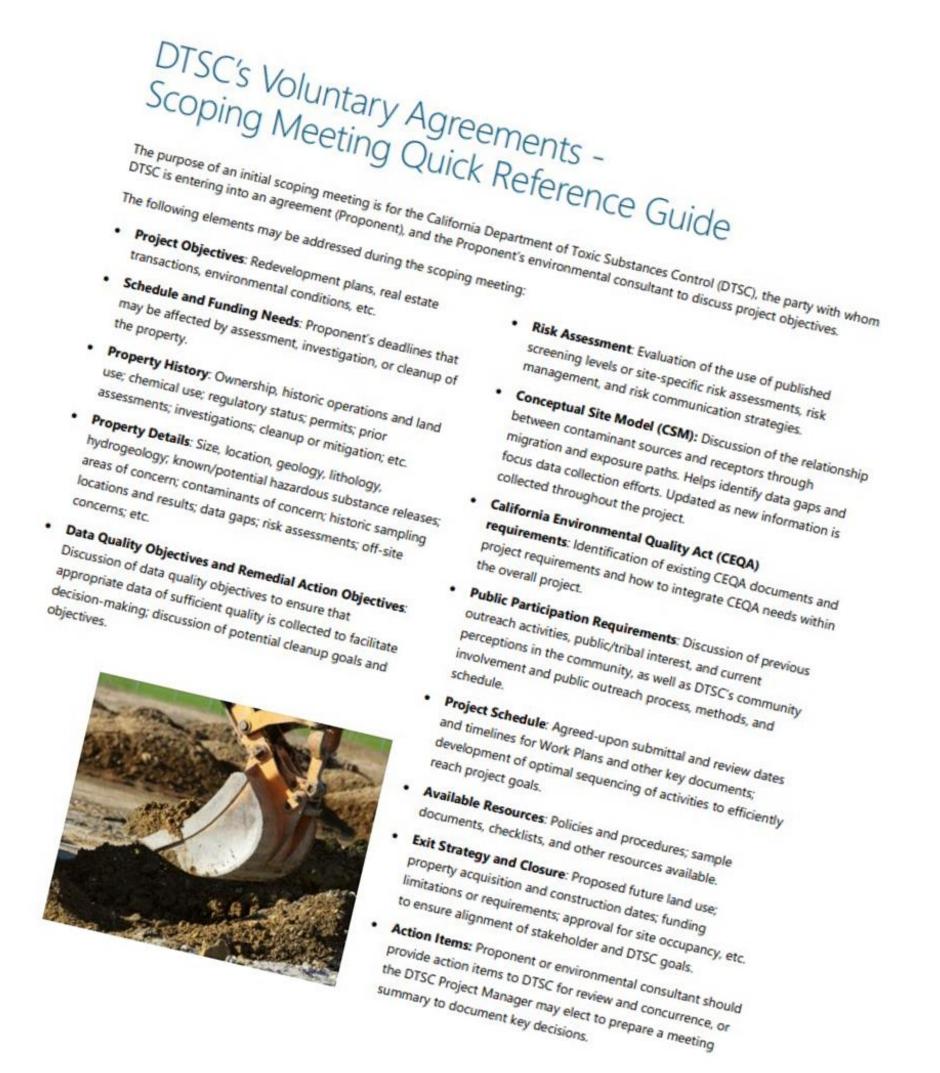
- Before you sign the agreement
- Before you start the project
- Before submitting documents

Why?

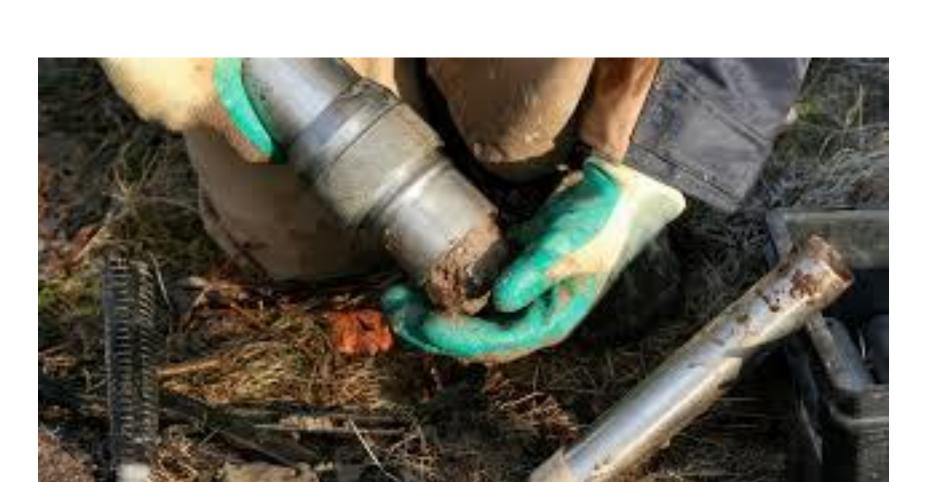
- Communication
- Alignment of goals
- Investigation and cleanup approaches
- •Funding, investors, permitting timelines
- Low Income Housing Tax Credits

Before submitting documents...

- Let us tell you what we want
- Resolve disagreements
- Minimize comment and response to comment cycles



What are our goals for investigations?



- Source identification
- Lateral and vertical delineation
 - Vapor Intrusion: talk to Ben at his Topic Talk
- Evaluate impacts to soil
- Evaluate soil gas (if applicable)
- Evaluate potential of indoor air risk (if applicable)
- Evaluate impacts to groundwater
- Collect sufficient data to evaluate risk

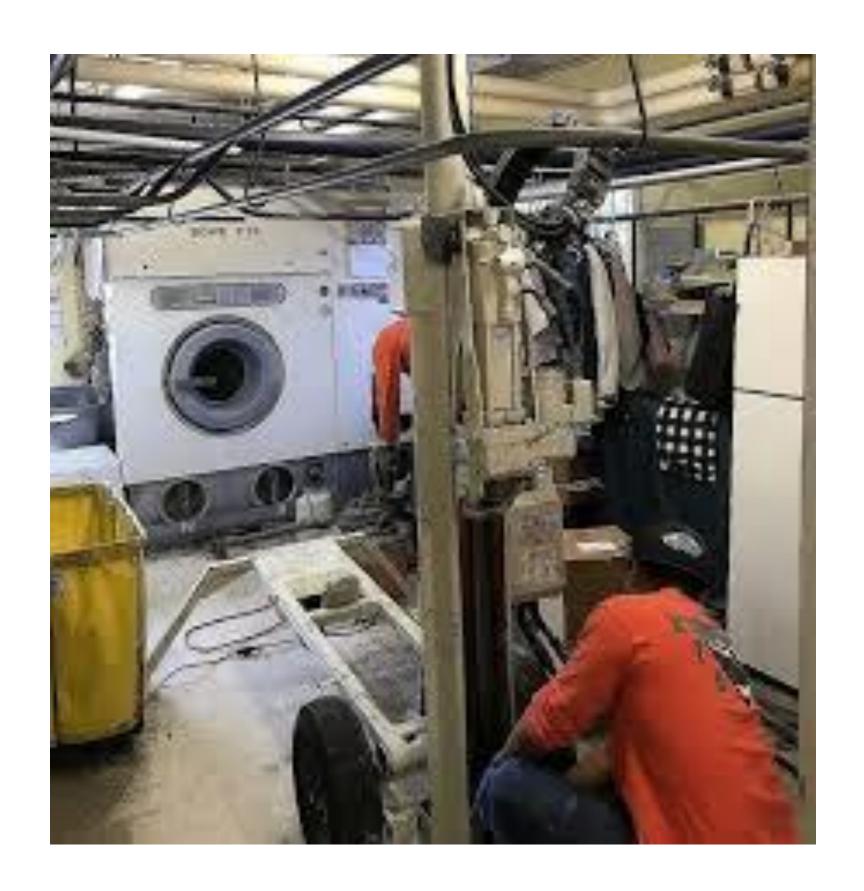
When is off-site investigation needed?

- Contamination could migrate off-site
 - Perimeter data
- Potentially impact off-site receptors
- Vapor contaminated sites
 - May need indoor air samples from adjacent buildings
- Access is an issue
 - Perimeter samples
 - Right of way
 - Bifurcate onsite and off-site
- For CLRRA+PPA, consider enforcement actions for polluters



What if my site is not the source?

- Limited resources for area-wide discovery studies
- Operational history unequivocally determines no use of contaminant
- Vertical and lateral delineation
- Perimeter data
- May require long term monitoring to ensure ongoing safety
- Upon approval; may not need off-site impact evaluation



When are we done with the investigation?

- Delineate to non-detectable levels
- Delineate to levels that are not a risk
- Enough data to make decisions that:
 - On-site source does not exist
 - Source is delineated
 - Enough data to determine off-site impact
 - Can separate off-site from on-site work
- What could that mean? (HERO Note 3)
 - 1x10-6 to 1x10-4 risk
 - Lead: 80 mg/kg
 - Arsenic: Background 0.6 –11 mg/kg
 - PCBs: 0.23 -1 ppm or as directed by USEPA



When is cleanup needed?

It's complicated....

- Concentrations over cleanup goals
- Over risk management range
- Can separate media
- Cleanup plans
 - CEQA analysis
 - Public engagement
 - Community Considerate
 Cleanup



What does "No Further Action" mean?



- No more investigation or cleanup needed
 - Safe for <u>any</u> reuse, environmental concerns resolved
- No more investigation or cleanup needed, but
 - Safe only for commercial or industrial
 - Safe if engineering control maintained
 - Safe if special conditions are met
- May be media specific
- Conditional NFAs require long term stewardship

What are stewardship expectations?

When waste not fully removed:

- Operation and Maintenance Plan and Agreements
 - Ensures long-term protection
- Financial Assurance
 - Set aside of funds calculated by DTSC
 - Ensures finances for operation and maintenance
 - Currently being updated
- Land Use Covenants
 - Used when exposure controlled through restrictions
 - Only property owners can sign
 - Requires annual inspections and reporting



Should We Go Self-Directed

- Investigation phase
- Remedy evaluation and selection phase
- Cleanup implementation phase

KEY POINT:

"THESE THINGS MUST BE DONE DELICATELY"







Special Cases (that come up repeatedly)

- Phase I miscues
- RECs
- Nearby dry cleaners and sewers
- Low Income Housing Tax Credit (LIHTC) Sites



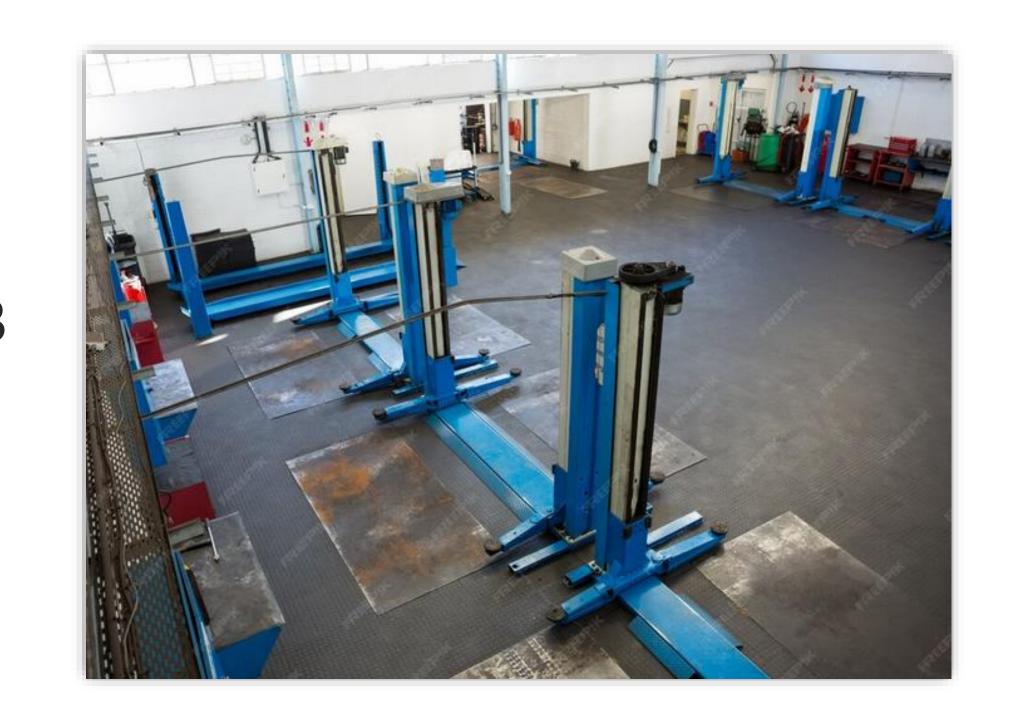




Example Site – What do you think?

- Former tire, battery, auto service center
- Hydraulic lifts in repair bays
- PCE in SV at 5 and 15 across site at 30 to 70 ug/m3

Low-level impact ready for development or potential for deeper impacts and start of lengthy regulatory program?



KEY POINT:

SUFFICIENT SITE CHARACTERIZATION AND CSM DEVELOPMENT MUST BE PERFORMED TO SUPPORT PROJECT PLANNING AND REGULATORY PROGRAM REQUIREMENTS.









TOGETHER WE EMPOWER **COMMUNITIES THROUGH** THE TRANSFORMATION OF **BROWNFIELDS**

JOIN THE CONVERSATION, USE #CALRC2025 TO SHARE YOUR PHOTOS, INSIGHTS AND HIGHLIGHTS!

WE APPRECIATE YOUR FEEDBACK, FOLLOW THIS QR CODE TO SUBMIT AN EVALUATION FORM ON WHOVA.



