



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

AUG 21 2003

Mr. Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency
1001 I Street
Sacramento, California 95814

Winston
Dear Mr. Hickox:

Thank you for your letters of June 6 and July 21, 2003. I too believe that we made significant progress during our meeting in July, and concur with your general sense of the meeting's outcome. The Department stands committed to work with the State of California in setting priorities for determining the source and magnitude of perchlorate problems at military facilities, communicating and understanding California's requirements related to perchlorate, and assisting in marshalling "assets and resources" for researching effective treatment technologies. It is my understanding that the working group will not, however, be involved in or attempt to influence the establishment of California's perchlorate public health goal or Maximum Contaminant Level.

With respect to your request that installations respond to recent California Regional Water Quality Control Board letters requesting certain information, I am reminding the Services to ensure that our installations work with the Boards to address their concerns. Under the Defense Environmental Restoration Program (DERP), our installations may already have collected and provided to California state regulatory personnel information regarding chemicals that have established federal toxicity criteria and that were previously identified during our response actions as chemicals of concern. If you have concerns relating to a specific installation, that installation will gladly review the matter with appropriate state regulatory personnel.

With regard to the proposed Readiness and Range Preservation Initiative, we agree that the RCRA and CERCLA proposals are codifications of current practice and not changes in our common understanding of the law. These two proposals are not intended to affect any responsibility that DoD may have for perchlorate contamination that has migrated or may migrate from an operational range.



In addition, we recognize that the Department of Defense is subject to and must comply with properly promulgated standards established by Federal and State authorities under the authority of the Federal Safe Drinking Water Act. Federal and State standards set under authority of the Safe Drinking Water Act address protection of wellhead areas, public water systems, and underground injection. While Safe Drinking Water Act standards do not automatically translate into cleanup standards, the program managers take these standards into consideration under the Federal regulatory cleanup process.

I've enclosed a draft of what I hope can be a charter for our interagency working group. I propose that we convene our first meeting during the week of August 25, 2003, to finalize our agreement and determine membership for the group. Please call me at your earliest convenience at (703) 697-8080, to confirm.

Sincerely,

A handwritten signature in cursive script that reads "John Paul Woodley, Jr." with a small flourish at the end.

John Paul Woodley, Jr.
Assistant Deputy Under Secretary of Defense
Environment

Enclosure

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CHARTER

**DoD - CALIFORNIA INTERAGENCY TECHNICAL WORKGROUP ON
PERCHLORATE**

ARTICLE I—ESTABLISHMENT

The Department of Defense (DoD) and the State of California (California) hereby establish an Interagency Technical Workgroup on Perchlorate (“Interagency Technical Workgroup,” or “ITW”).

ARTICLE II--MISSION

DoD and California shall work collaboratively, in a process that fully recognizes and respects the interests and needs of all affected stakeholders, to identify and resolve issues regarding the scope, scale and significance of perchlorate releases caused by current and/or past activities at facilities controlled by DoD. All parties recognize and agree to focus on genuine risks to public health and to obtain and use the best sciences available as identified by authoritative, disinterested and policy-neutral scientific experts.

ARTICLE III—OBJECTIVES

1. The objectives of the Interagency Technical Workgroup are:
 - a. To prioritize the types of activities deemed necessary and appropriate to address the issues related to perchlorate releases at facilities controlled by DoD. Prioritization of activities will take into account existing prioritization protocols and methods, identified human health risks, reliability, uncertainty, indirect risks, and cost-effectiveness of technological alternatives as applied to site-specific conditions.
 - b. To Identify and share science and technology information that may be useful regarding perchlorate issues, and to identify the site conditions and limitations under which the application is likely to be appropriate.

ARTICLE IV--ORGANIZATION

Within DoD, the establishment, administration, and operations of the ITW shall be under the authority of the Assistant Deputy Undersecretary of Defense for Environment (ADUSD-E)

Within California, the establishment, administration, and operations of the ITW shall be under the authority of _____.

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1. Balanced Representation.

- a. ITW shall be composed of an equal number of representatives from DoD and California.
- b. Notwithstanding any other provision of this Charter, the DoD-California balance shall remain unchanged if additional members are added.

2. Membership.

- a. DoD shall be initially represented by appropriate representatives of the following components:

- i. U.S. Army.
- ii. U.S. Navy.
- iii. U.S. Air Force.
- iv. U.S. Marine Corps.
- v. Defense Logistics Agency.
- vi. U.S. Army Corps of Engineers
- vii. ADUSD (E)

- b. California shall be initially represented by appropriate technical representatives of the following operating offices and/or agencies.

- i. _____.
- ii. _____.
- iii. _____.
- iv. _____.
- v. _____.
- vi. _____.
- vii. _____.

- c. ITW shall be co-chaired by the ADUSD (E) member and one member selected by California.
- d. At the discretion of the ITW by 2/3rds vote additional members may be added.
- e. The ITW is advisory in nature and shall not include any matter of agency or public policy. Members are authorized to develop, provide, review, disseminate and analyze technical information related to the Mission and Objectives as stated in Articles II and III

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of this charter. No member is authorized to opine or make decisions on any matter of agency policy.

3. Operating Procedures.

- a. *Revision.* This Charter may be revised by mutual agreement of the Co-chairs. (Make sure this is consistent with Article V below).
- b. *Co-Chair Responsibilities.*
 - i. Share Chair responsibilities on an alternating basis.
 - ii. Jointly oversee all activities, including the activities of any committees established to address specific issues.
- c. *Establishment of Facilitator*
 - i. A Facilitator shall be selected to moderate and expedite ITW affairs subject to two-thirds vote.
 - ii. The Facilitator shall possess sufficient technical knowledge to perform the functions expected; be a nonmember of ITW and be organizationally- and policy-neutral.
 - iii. The Facilitator shall be funded by equal DoD and California contributions.

4. Facilitator Responsibilities.

- a. Coordinate with the Co-Chairs to establish the meeting date, location, and agenda and provide these to the members in a timely manner .
- b. Ensure that meetings stay on schedule and on agenda, members are offered equal opportunities to participate, and manage procedural and administrative matters related to ITW functions and activities.
- c. Ensure that a complete and accurate record is maintained in accordance with Paragraph 5(e) below.
- d. Ensure that minutes of all meetings are promptly distributed to members for review, comment and concurrence.
- e. Prepare and distribute all correspondence.
- f. Maintain a current roster of all members.
- g. Maintain all records of the ITW.

5. Meetings.

- a. *Frequency.* The ITW shall set a goal to meet either in person, by teleconference or video teleconference monthly for the first three months then as necessary at a mutually agreeable time and place.

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- b. *Quorum.* A quorum shall exist if no less than two-thirds of all members are present. No official meeting shall occur without the existence of a quorum. The Co-chairs must be present.
- c. *Non-members.* At the discretion of the ITW, by majority vote or the agreement of the Co-chairs, non-members may address, provide information to, or participate in technical discussions with ITW.
- d. *Agenda.* The Facilitator, in coordination with both Co-Chairs, shall establish the agenda prior to each scheduled meeting and distribute it to all members for review and comment no less than three working days in advance of the scheduled meeting. Any item not on an advance Agenda may be added at any time by majority vote of all members or the concurrence of both Co-Chairs.
- e. *Minutes.*
 - i. The Facilitator shall prepare and forward an accurate and complete set of minutes to the Co-Chairs for content review within three working days after any scheduled meeting.
 - ii. Each Co-Chair shall be responsible for securing timely concurrence of the members within their respective organizations. After coordination is complete, each Co-Chair and the Facilitator shall sign the minutes and retain copies in their permanent files.
 - iii. The Facilitator shall distribute minutes to all members by email distribution list within one working day of approval by both Co-Chairs.

6. Records.

- a. A complete set of records shall be maintained by the Facilitator. Each Co-Chair will keep a complete set of records as provided by the Facilitator.
- b. These records shall be made available upon request to any ITW member via their representative Co-chair.

7. Voting.

- a. Each participating operating component, operating office and/or agency shall designate a principal member and an alternate member. Each member shall have one vote.
- b. No member shall be permitted to vote by proxy, but members shall be allowed to vote by voice if unable to be physically present at the meeting..

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- c. A roll call record of all decisions shall be maintained by the Facilitator.
 - d. All ITW recommendations shall be by a consensus of members present or participating by telephone.
 - e. No recommendation shall be forwarded without at least two-thirds of votes cast. (don't understand d. and e. consensus to me means 50% but e. says 67% . Recommend this be adjudicated) .
8. Information Quality.
- a. All Federal agencies have a nondiscretionary duty to comply with applicable Information Quality Guidelines issued by the Office of Management and Budget (OMB). Information dissemination by DoD is also subject to Information Quality Guidelines issued by DoD. Information to be disseminated by ITW shall be covered under these Guidelines.
 - b. All covered information shall be subject to appropriate pre-dissemination review and post-dissemination error correction procedures as set forth by OMB and DoD.
 - c. Scientific, technical and statistical information related to perchlorate shall be considered to be “influential” as that term is defined in OMB’s Information Quality Guidelines.
9. Progress Reports.
- a. The Co-Chairs, with the assistance of the Facilitator, shall provide the governing authorities (ADUSD-E and California authority) quarterly progress reports beginning 90 days after the first regular meeting.

ARTICLE V—AMENDMENTS

- 1. ITW may seek amendments of this Charter, or the revocation of a previously approved amendment, by the governing authorities. The submission of a recommendation does not alter in any way governing authorities’ management prerogatives.
- 2. Recommendations for an amendment shall be forwarded by majority(7e above says 2/3rds vote) vote through the Co-Chairs to the governing authorities.