



Report on Improving Enforcement Performance

Enforcement and Emergency Response Division

The mission of the Enforcement and Emergency Response Division is to protect human health and the environment through consistent and timely investigations, enforcement and emergency response.

Improving Enforcement Performance

The 2015-16 Budget Change Proposal (BCP), Improving Enforcement Performance, provided resources for improving the efficiency and effectiveness of the Department of Toxic Substances Control's (DTSC) Enforcement Program. The BCP identified the following five objectives (goals):

- GOAL 1: Clearly define the inspection and enforcement process, and identify areas for streamlining and barriers to an efficient inspection and enforcement program.
- GOAL 2: Establish clear metrics to evaluate performance in inspection and enforcement activities.
- GOAL 3: Create a formal review process for enforcement case management.
- GOAL 4: Clearly communicate the inspection and enforcement process to stakeholders and the community.
- GOAL 5: Incorporate community engagement in setting inspection and enforcement priorities.

Below is a summary of the strategies, achievements, and outcomes for each goal set forth in the BCP.

GOAL 1: CLEARLY DEFINE THE INSPECTION AND ENFORCEMENT PROCESS, AND IDENTIFY AREAS FOR STREAMLINING AND BARRIERS TO AN EFFICIENT INSPECTION AND ENFORCEMENT PROGRAM.

A. FIRST STRATEGY: Perform an extensive review of the inspection and enforcement process and identify areas for improvement.

ACHIEVEMENTS:

Completed three Lean Six Sigma Projects:

- ✓ Enforcement Response Improvement - This project was completed in July 2016.
- ✓ Inspection Reports - This project was completed in July 2017.
- ✓ Assessment and Approval of Proposed Administrative Enforcement Penalties - This project was completed in July 2017.

OUTCOME:

1. Enforcement Response Improvement Project

Problem Statement: Through a GO-Biz Green Belt Certification project, the project team found that the time to complete administrative enforcement actions for cases with calculated penalties of up to \$75,000 was 395 days, which created stakeholder dissatisfaction and workload planning difficulties.

Project Goal: To reduce the time to complete enforcement actions for administrative cases with calculated penalties of up to \$75,000 so that 90 percent of cases are completed within 180 days.

Status and Next Steps: The project team created a new process map that consolidated and reduced multi-level reviews, incorporated paralleled processing of the inspection report writing and penalty matrix preparation phase, minimized centralized processing by not requiring the Penalty Working Group to review small-penalty cases (less than \$30,000), and reduced batch amounts by increasing the frequency of Penalty Working Group meetings between regular monthly meetings.

The project team also created a Project Management Tracker and used it in a one-year pilot project to capture data required to measure performance with the project's goal. The pilot project was initiated in August 2016 and extended through August 2017. Currently, data was collected and evaluated for 60 inspections conducted statewide. Preliminary analysis of the data indicates that the average time to complete inspection reports was 45 days (the previous baseline was 55 days), and 16 enforcement cases were initiated. Currently only one administrative enforcement action was completed (468 days), and the remaining 15 actions are in the Penalty Matrix and Penalty Work Group Phase. Based on the results of this pilot project, the team determined that the Inspection Report and Penalty Assessment phase contribute significantly to the time required to complete administrative enforcement actions.

This prompted EERD to initiate 2 additional L6S projects to address those barriers: time to complete quality inspection reports and time to assess penalties (see below).

2. Lean Six Sigma –Inspection Reports Time Reduction Project

Problem Statement: This project builds upon the findings of the *Enforcement Response* project in 2016. Through a GO-Biz Green Belt Certification project, the project team focused on the time to complete an inspection report.

Project Goal: Complete and submit 95 percent of inspection reports within 30 days.

Status and Next Steps: Staff are in the process of implementing a checklist format for transporter inspections, a Class 2 violation threshold for checklist based inspections, an inspection report template that concisely documents needed information, sampling kits, creating an Inspection Report Completion Team / Penalty Determination Team (Class 1 Violations), creating standard cover letters for inspection reports, and minimizing review phases for inspection reports.

The project team will develop draft instructions for the newly created documents and processes, pilot test transporter and e-waste inspections beginning in September 2017, and monitor the new process and adjust if out of control limits.

3. Lean Six Sigma – Assessment and Approval of Proposed Administrative Enforcement Penalties Project

Problem Statement: This project builds upon the findings of the *Enforcement Response* project in 2016. Through a GO-Biz Green Belt Certification project, DTSC identified the penalty assessment phase as a factor contributing to delays in timely completion of enforcement actions. Currently, DTSC takes an average of 259 days to assess an initial penalty (FY 2014-2016).

Project Goal: Assess and approve 95 percent of initial penalties for administrative enforcement actions within 14 days of sending an inspection report to a facility.

Status and Next Steps: The project team developed a new process to assess penalties and a Penalty Determination Team that is comprised of a Lead Inspector, Penalty Specialist who is knowledgeable and experienced to ensure regulations are applied appropriately and consistently, Supervisor, Legal Counsel, and other specialists, as needed (e.g. Branch Chief if high priority case, Geologist if ground water audit, Financial Assurance Specialist, etc.).

The project team conducted a pilot test of two penalty assessment cases. In both instances, implementing the new processes reduced the time to assess penalties down to 10 days.

The project team, in close collaboration with the Inspection Report L6S team, is also pilot testing the new process with transporter and e-waste inspections, and will monitor the new process and make adjustments if out of control limits.

We anticipate that additional process improvements will be identified as we proceed through the Improve and Control phases of these three projects. Improvements will be incorporated as part of the continual monitoring and maintenance. Recommendations resulting from the Lean Six Sigma projects will also be incorporated into program policies and procedures.

B. SECOND STRATEGY: Create a clear and detailed improvement plan.

ACHIEVEMENT:

- ✓ The *Enforcement Improvement Plan* (Plan) identifies specific program improvement efforts, projects, and timelines for completion. The Plan was finalized in June 2017.

OUTCOME:

A detailed working *Plan* was drafted in June 2016 identifying specific program improvement efforts, projects, and associated timelines for completion. The final Plan, finalized in June 2017, is the guiding document to identify areas for improvement and will be a roadmap for future improvement projects. It will be updated as EERD completes the remaining improvement projects, identifies improvement efforts, or updates regulations, policies and procedures.

- C. THIRD STRATEGY:** Identify barriers to process improvement that require regulatory or statutory changes and draft language to make those changes.

ACHIEVEMENT:

- ✓ The three Lean Six Sigma projects undertaken by the Enforcement Program have identified barriers to process improvements and identified areas in need of improvement, including regulatory and statutory changes.

OUTCOME:

Detailed mapping of the penalty assessment phase of the enforcement process shows that the existing penalty regulations (California Code of Regulations, Title 22, Division 4.5, Chapter 22, Article 3. Assessment of Administrative Penalties) are difficult to apply, particularly for less harmful hazardous wastes with alternative management standards (e.g., universal waste). EERD is updating the Administrative Penalty regulations and recommending changes to improve overall applicability.

GOAL 2: ESTABLISH CLEAR METRICS TO EVALUATE PERFORMANCE IN INSPECTION AND ENFORCEMENT ACTIVITIES.

- A. FIRST STRATEGY:** Develop clear and consistent workload standards to track and evaluate inspections and enforcement activities.

ACHIEVEMENTS:

- ✓ Updated workload standards for inspection and enforcement activities.
- ✓ Undertaking a one-year comprehensive evaluation of inspection activities to develop more detailed and updated program workload standards.

OUTCOME:

A preliminary workload standard allows EERD to assess whether available staff resources are adequate to meet current and future inspection and enforcement obligations. EERD has undertaken a yearlong study to collect data from inspection staff and create more accurate workload standards for inspection activities. Previous workload standards were developed by using estimates that came from anecdotal information. EERD is currently using updated workload standards based on DTSC's current timekeeping system data. While more accurate than the anecdotal

standards, it is not based on data that differentiates inspection activities. This study includes measurement of the time it takes staff to complete pre-inspection, inspection, and post-inspection activities. By completing this study, EERD will be able to more accurately estimate the staff resources necessary to address any changes to the inspection workload.

- B. SECOND STRATEGY:** Update EnviroStor documents and EnviroStor Training Manual to ensure long-term success of the system.

ACHIEVEMENTS:

- ✓ Completed numerous updates to EnviroStor documentation; additional updates are underway.
- ✓ Currently drafting an EnviroStor Training Manual (completion target date December 2017).

OUTCOME:

Improve program performance management of inspection and enforcement activities. Efficiently prioritize work conducted to maximize resources to achieve or exceed all established performance measures, including those specified in Lean Six Sigma projects.

GOAL 3: CREATE A FORMAL REVIEW PROCESS FOR ENFORCEMENT CASE MANAGEMENT.

- A. FIRST STRATEGY:** Draft/update policies and procedures; and guidance documents.

ACHIEVEMENTS:

- ✓ Three program policies were updated and approved in July 2016.
- ✓ Five additional program policies were updated and approved in June 2017.

OUTCOME:

Increase program-wide consistency and effectiveness for all activities, including the review of enforcement cases. The eight core policies for the Enforcement program were last updated in 2009. The first three (*Sharing Administrative Penalty Calculations Information*, *Referrals to California Compliance School*, and *Implementing Quarantine Authority*) were revised and approved in July 2016. The other five policies (*Collecting Overdue Administrative Penalties*, *Hazardous waste Complaints*, *Calculating Economic Benefit of Noncompliance*, *Enforcement Response*, and *Conducting Inspections*) were approved in June 2017.

B. SECOND STRATEGY: Identify technical guidance and training for staff to implement process improvements.

ACHIEVEMENT:

- ✓ A comprehensive Inspector Training Program was developed and provided to staff in March 2017.
- ✓ Training on implementing DTSC's Supplemental Environmental Projects Policy was developed and presented to EERD staff in March 2017.

OUTCOME:

The Inspector Training Program was created to provide enforcement staff with the technical skills they need to perform hazardous waste inspections and investigations. Staff must be formally and sufficiently trained to conduct all their job duties; the Training Plan also provides guidance for tracking and documenting staff training. DTSC inspectors perform a variety of technical work, including the inspection of hazardous waste generators, treatment, storage, and disposal facilities, conducting complaint investigations, responding to emergency incidents, taking environmental samples, preparing enforcement documents, and providing testimony in administrative hearings and other court-related proceedings. This technical work requires an enforcement specific training plan. The Training Program will accomplish two goals:

1. Refine and revise EERD's current training courses; and
2. Develop new courses to meet the training needs of new and existing inspectors.

To ensure consistency and make certain that all staff conducting inspections have the same basic technical training background, this Training Program will develop, implement, and evaluate EERD inspector training courses as well as assess the need for additional course development.

C. THIRD STRATEGY: Develop procedures or establish a workgroup to review enforcement cases for consistency and precision.

ACHIEVEMENT:

- ✓ Utilize a formal workgroup comprised of legal, EERD staff, and managers to review enforcement cases for consistency and precision.

OUTCOME:

Increase program-wide consistency and effectiveness for all activities, including the review of enforcement cases. The status of cases is reviewed monthly with the Office of the Attorney General, Office of Legal Counsel and EERD managers and division chiefs.

GOAL 4: CLEARLY COMMUNICATE THE INSPECTION AND ENFORCEMENT PROCESS TO STAKEHOLDERS AND THE COMMUNITY.

A. FIRST STRATEGY: Evaluate and initiate enhancement efforts to the public EnviroStor website to improve program transparency.

ACHIEVEMENTS:

- ✓ Completed enhancements to the public EnviroStor website and additional improvements are planned.
- ✓ DTSC held a public webinar in December 2016 to encourage public comments and recommendations on the type of information that they are interested in viewing to make the public website more user friendly.

OUTCOME:

Timely and clear communication with the public and stakeholders. The Office of Environmental Information Management and EERD will make the public side of EnviroStor more accessible. EERD will make additional improvements as funding and staff resources are made available; EnviroStor improvements is an ongoing project.

GOAL 5: INCORPORATE COMMUNITY ENGAGEMENT IN SETTING INSPECTION AND ENFORCEMENT PRIORITIES.

A. FIRST STRATEGY: Develop an effective communication strategy for engaging neighborhoods in close proximity to inspection and enforcement activities.

ACHIEVEMENT:

- ✓ A public engagement strategy was developed to encourage community engagement in program activities. The development of the strategy relies heavily on the results of the 2017, *Enhancing and Modernizing Public Outreach & Engagement Strategies at the California Department of Toxic Substances Control* report. The report, developed in collaboration with the University of California, Davis, provides DTSC with recommendations for enhancing the Enforcement Program's public participation practices.

OUTCOME:

The strategy outlines tasks and functions that EERD will employ to increase public engagement. Some of these include:

- ✓ Redesign Public EnviroStor Website [*ongoing*].
- ✓ Host public webinars to encourage public comments and recommendations.
- ✓ Upload past inspection/enforcement documents to EnviroStor.
- ✓ Update the Enforcement pages on the DTSC website to make them easier to navigate and provide meaningful/current content.
- ✓ Upload a detailed mapping of the inspection and enforcement process.
- ✓ Establish a forum for public feedback in prioritizing enforcement activities.
- ✓ Collaborate with DTSC's Permitting Division and Office of Public Participation to conduct surveys, workshops, and public outreach on an ongoing basis.

SECOND STRATEGY: Identify and develop analytical tools to prioritize DTSC's enforcement efforts.

ACHIEVEMENT:

Utilizing CalEnviroScreen and CalEPA Environmental Complaint System to prioritize enforcement activities.

OUTCOME:

Continual community engagement in inspection and enforcement activities. Including:

- ✓ Using CalEnviroScreen to identify impacted communities.
- ✓ Using the CalEPA Environmental Complaint System to prioritize enforcement activities.

EERD utilizes these two tools to help identify enforcement priorities. We anticipate greater use of these and possibly other tools in the future. EERD will continue identifying and developing tools to prioritize inspection and enforcement activities.

SUMMARY

EERD will continually work to implement the objectives and strategies developed to achieve each of the five goals set forth in the BCP. The principle roadmap for this ongoing effort is the *Enforcement Improvement Plan*. EERD anticipates making updates to the Plan and *EERD's Strategic Plan* on an annual basis.