



Department of
Toxic Substances
Control



CalEPA
California Environmental
Protection Agency

Hazardous Waste Management Program

WORKLOAD ANALYSIS BRIEFING

FEBRUARY 9, 2021



Welcome

Agenda

- Overview: Comprehensive Reform Approach
- Overview of Hazardous Waste Management Programs
- Programmatic Workload Analysis Findings
- Question and Answers

Comprehensive Reform: Three Questions

Administration's Proposed Solution Addresses Three Questions

- What programs should DTSC deliver?
- What fees and revenues support those service levels while disincentivizing the use and mismanagement of hazardous substances?
- What governance structure best fosters greater transparency and stronger community engagement?

What this is and is not

What it is:

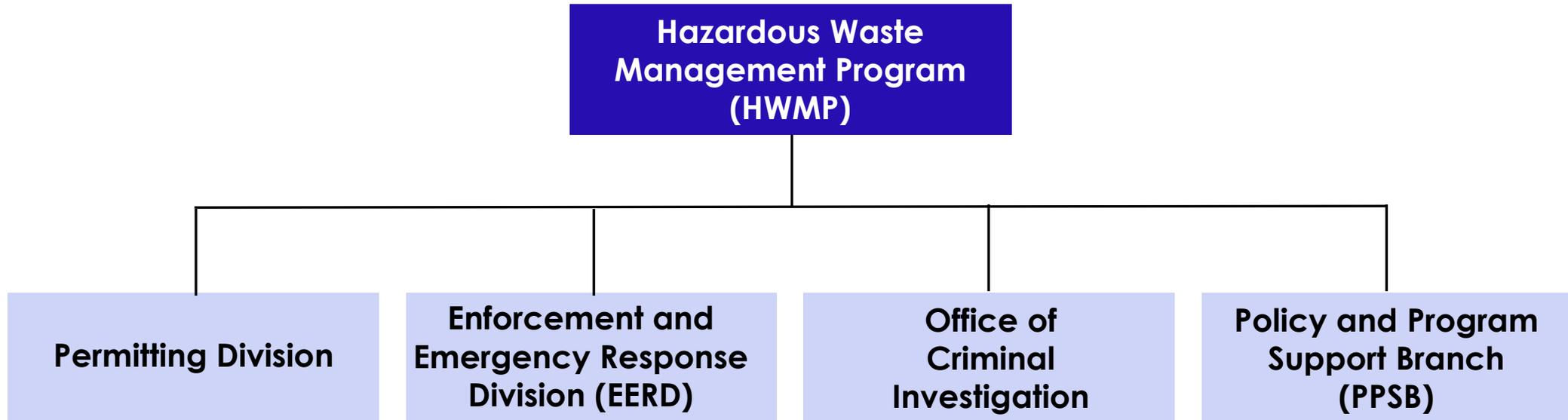
- An analysis of DTSC's core programs
- A discussion of DTSC's service levels
- Documents DTSC program improvements
- Provides transparency on how DTSC is using its current resources
- An estimation of priority resource gaps

What this is and is not

What it is not:

- A budgetary request for resources
- A comprehensive analysis of every DTSC statutory authority

Hazardous Waste Management Program (2018-2019)





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Office of Criminal Investigations

WORKLOAD ANALYSIS



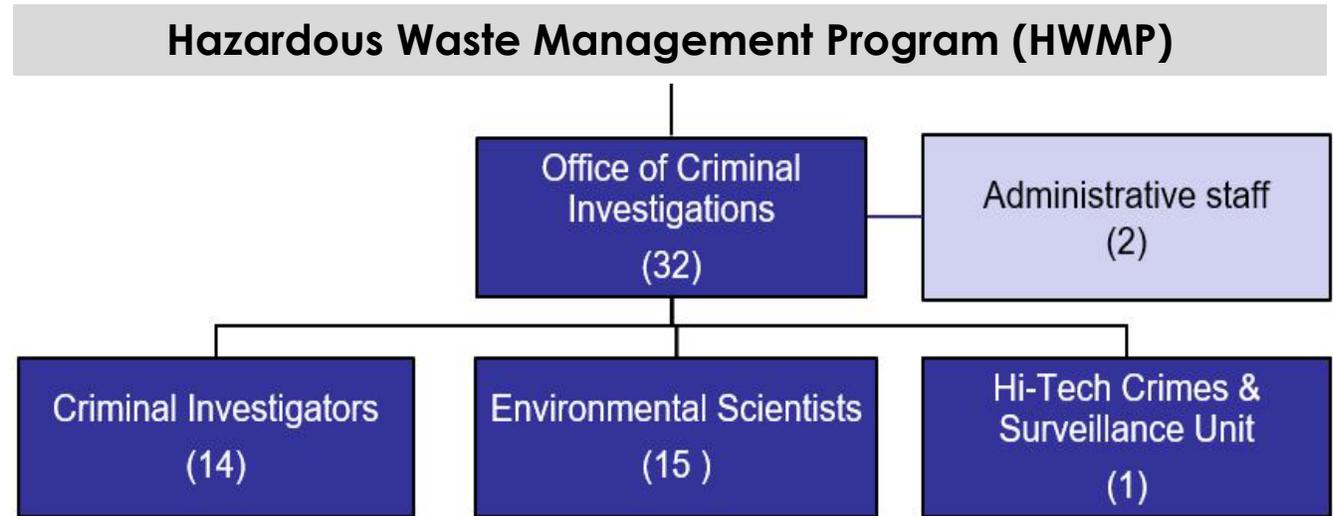
Office of Criminal Investigations



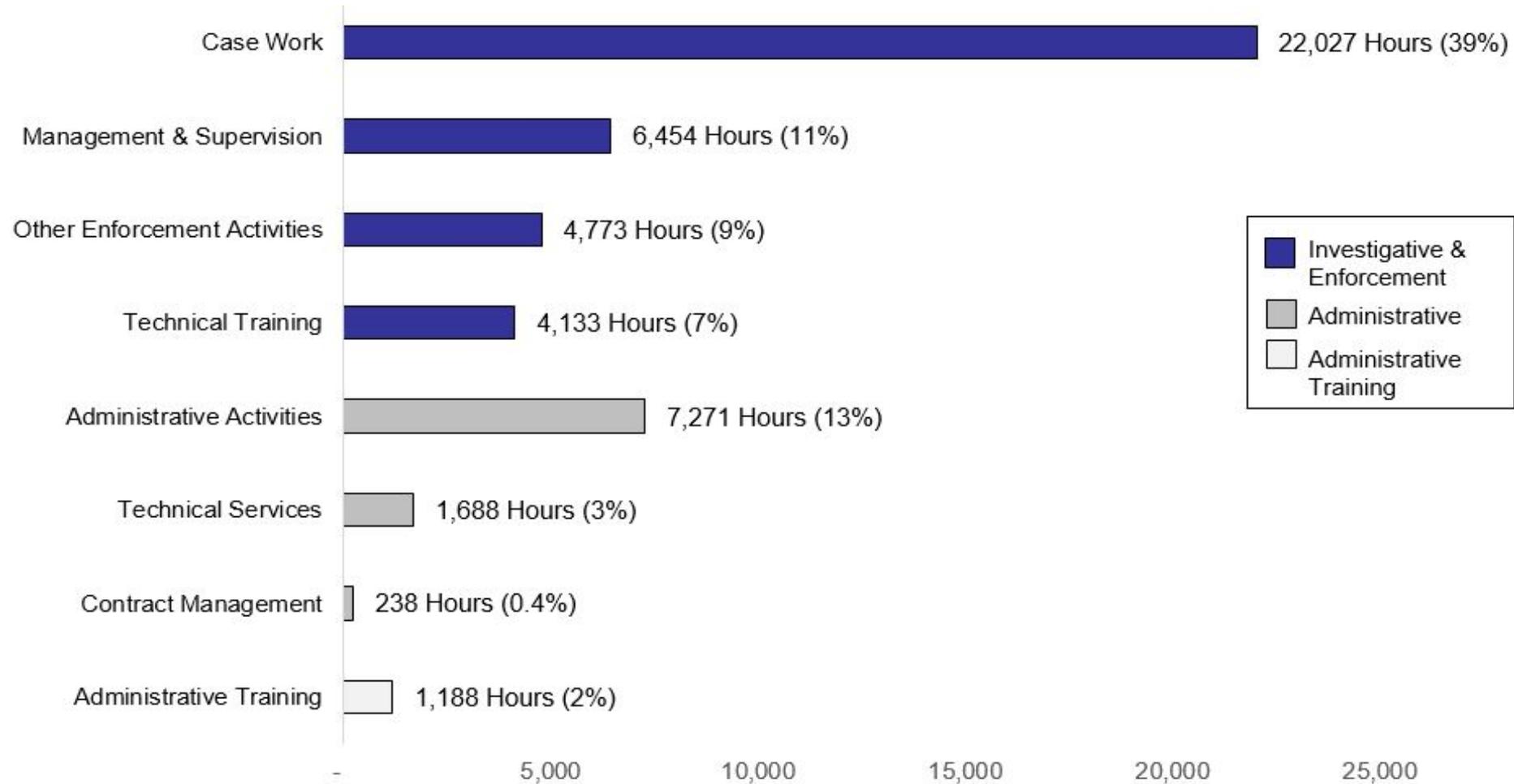
- Our mission is to prevent an investigate violations of Hazardous Waste Control Laws
- OCI investigates crimes in environmental justice communities
- OCI Partners with state and local agencies to investigate large statewide cases

Office of Criminal Investigations

- 32 positions
- Law enforcement officers, scientists, computer forensics specialist, and administrative staff
- \$6M Operating budget



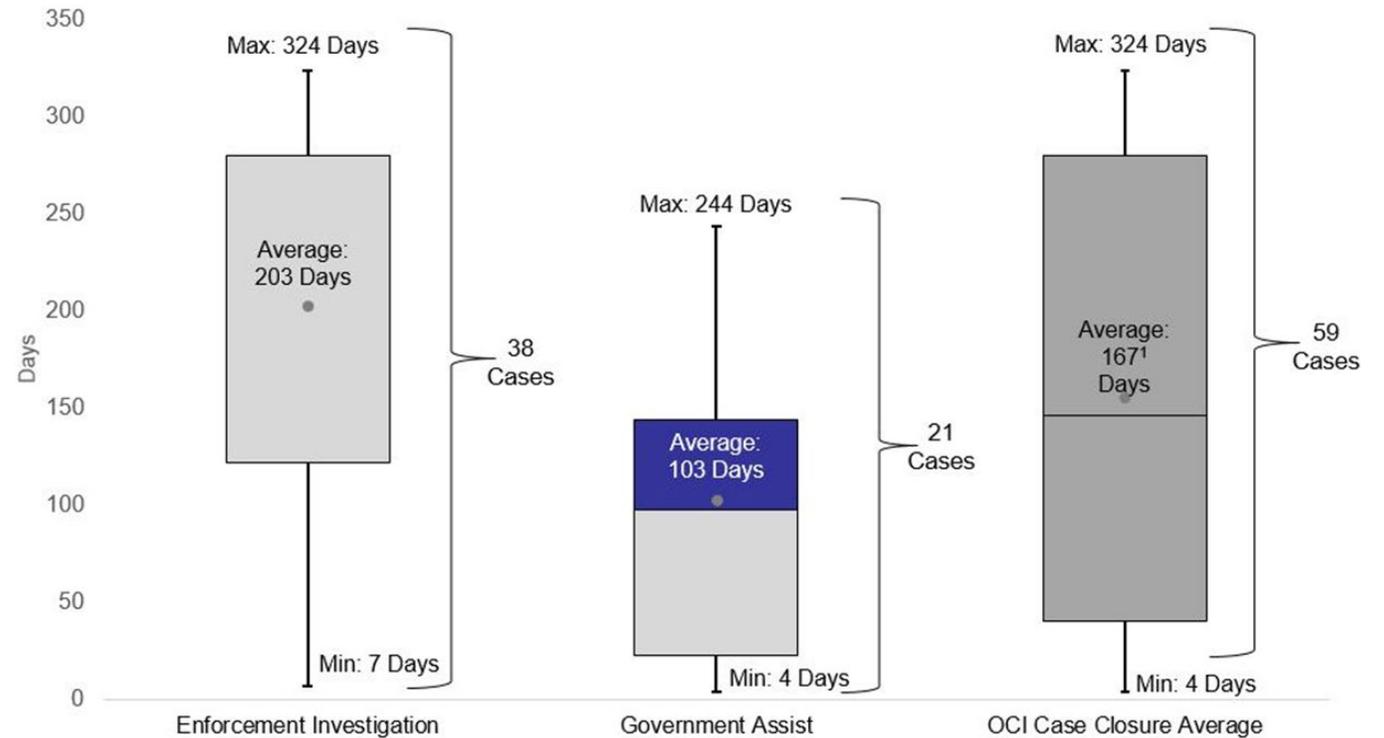
OCI Staff Hours by Activity^{1,2} (Fiscal Year 2018-19)



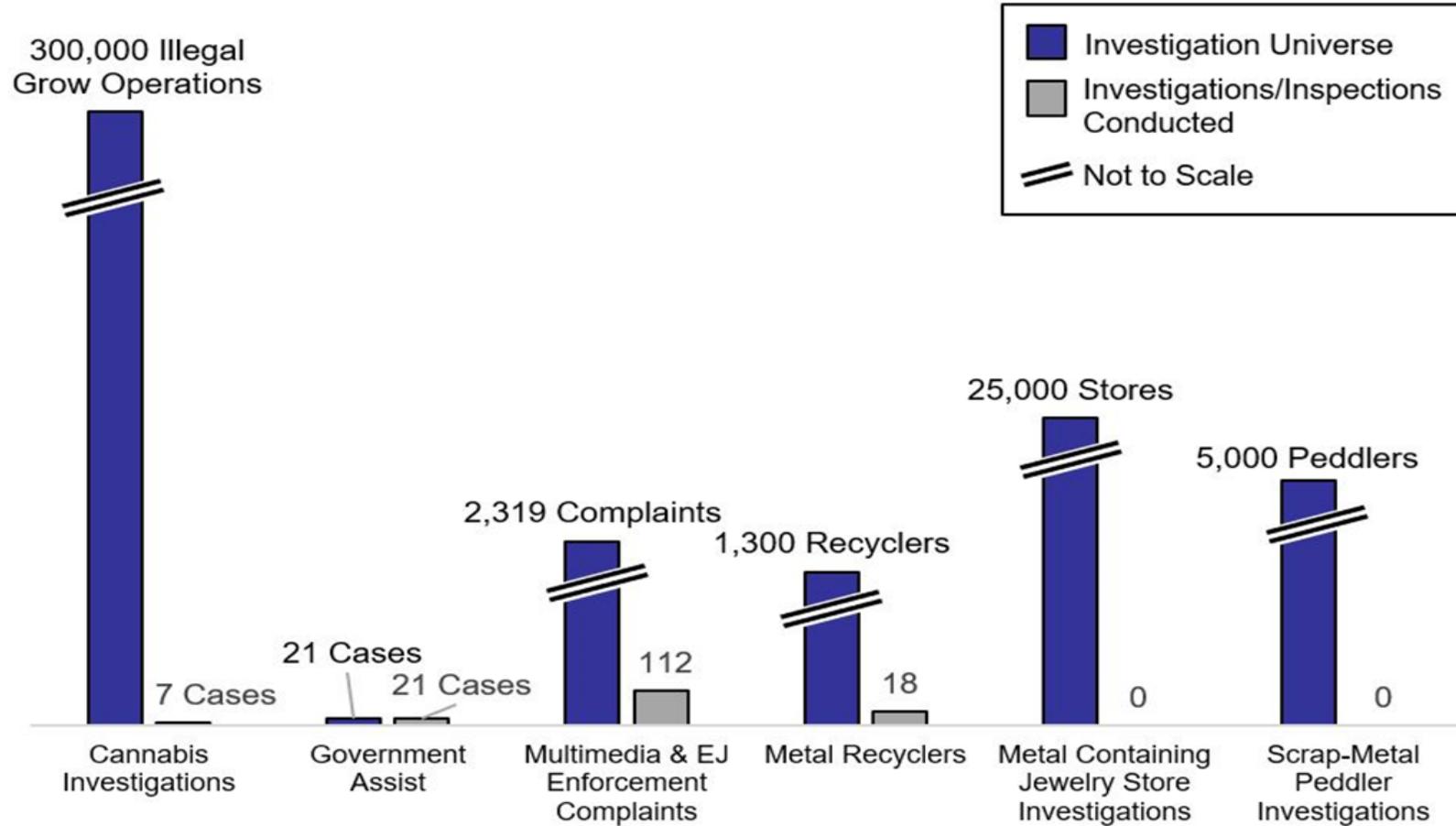
FY 18-19 OCI Case Load Activities

OCI tracks its case load

- Investigated 112 complaints
- Conducted 14 high Priority Metal Recycling investigations
- Closed 59 cases
- On average it 167 days to complete a case

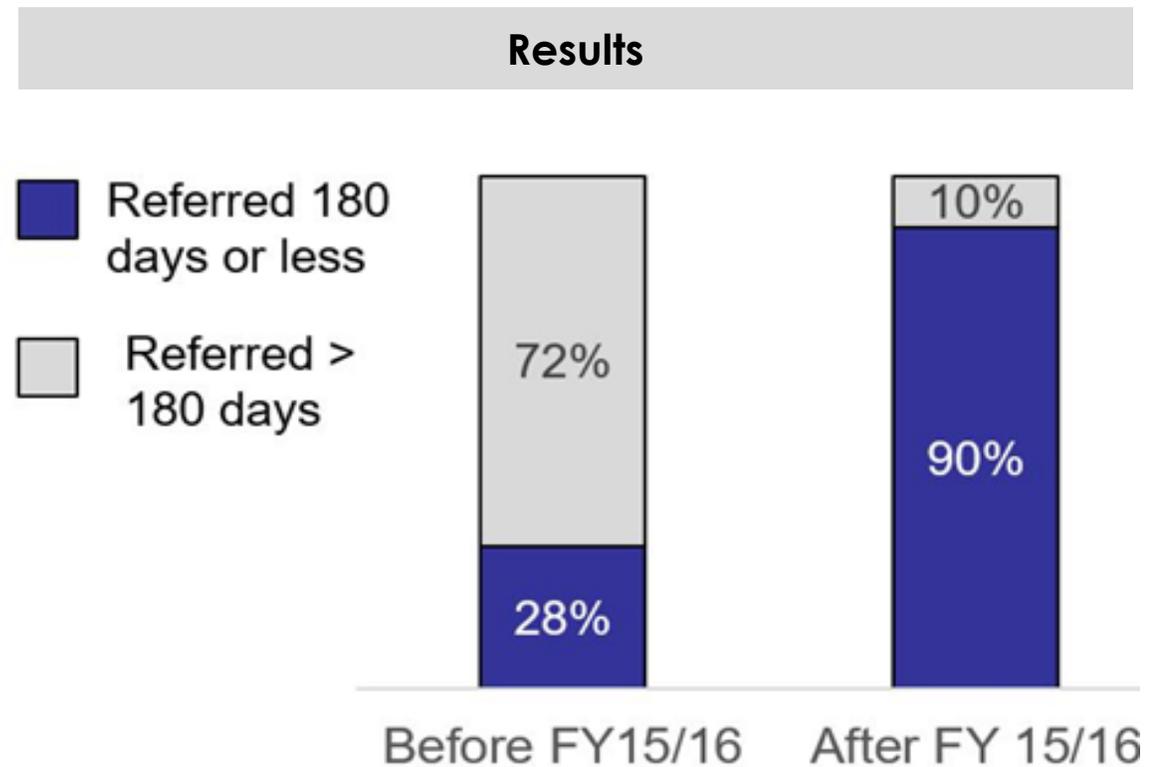


OCI Investigations and Inspections (Fiscal Year 2018-19)



Improving Case referrals:

- OCI Implemented Lean 6 Sigma Project
- 95% referral of cases with 180 days
- Closed over 200 backlogged cases
- Created tracking system



OCI Case Studies



Metal Recyclers



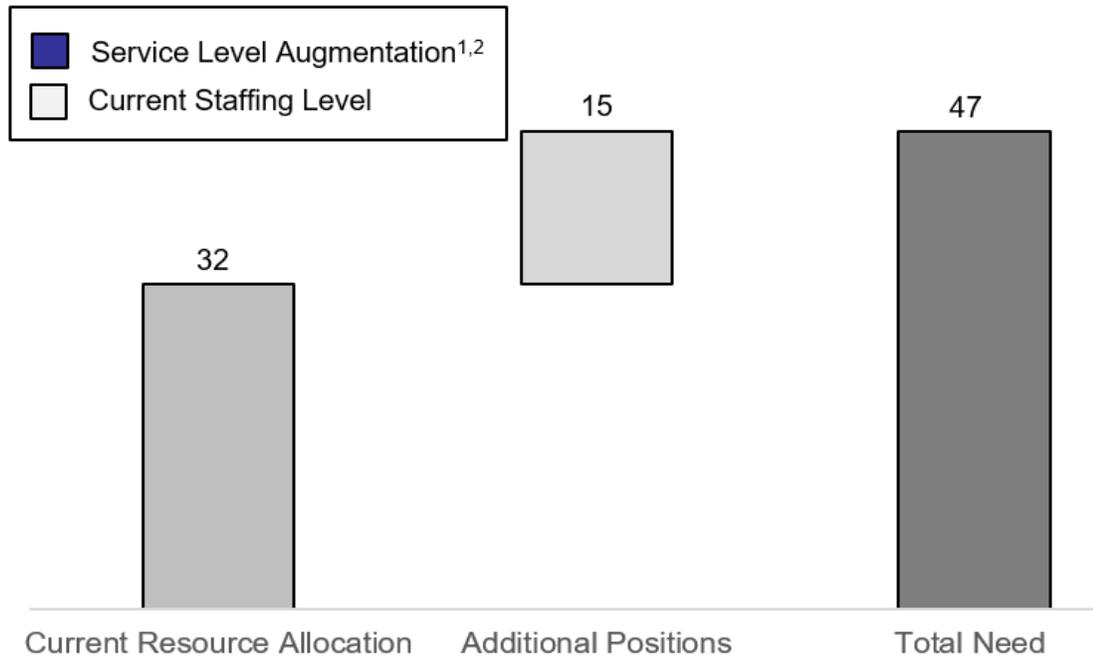
Electronic Waste



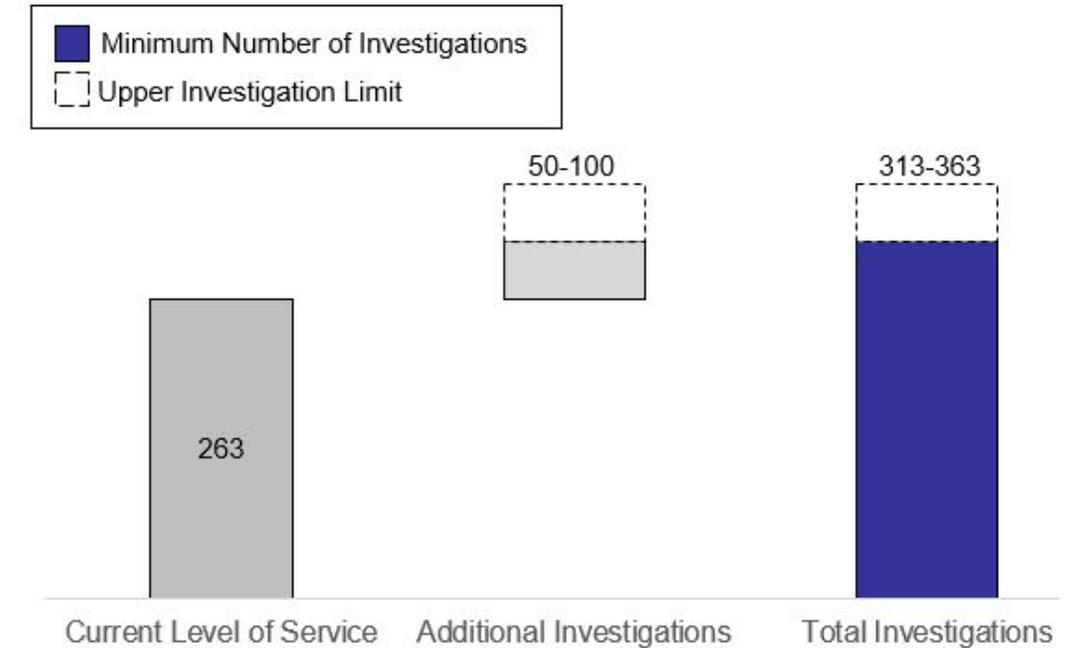
Criminal Activity

With additional resources, OCI would be able to focus on high-priority multimedia, multiagency investigations in environmental justice communities

OCI's Additional Investigative Activities



OCI's Additional Investigative Activities



Key Takeaways - OCI

- OCI plays a pivotal role in protecting the environment and people of California
- OCI is the only program within CalEPA that can do environmental crimes investigations
- OCI conducts statewide investigations jointly with federal, state and local law enforcement agencies



Questions and Answers

- Zoom Audio: To use Zoom audio, use the "raise hand" feature and you will be invited to unmute audio when it's your turn
- Text Only: To have your question read by the facilitator, please use the Q&A feature.



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Enforcement and Emergency Response Division

WORKLOAD ANALYSIS



DTSC Enforcement Organizational Structure



Enforcement and Emergency Response Division protects Californians

- Our mission is to protect people and the environment through inspections, enforcement, and emergency response
- 60 percent of hazardous waste inspections are targeted near environmental justice communities
- 74 percent of illegal drug lab and off-highway removals were performed in disadvantaged communities



Enforcement and Emergency Response Division

- The Division has 106 professional scientists, engineers and multi-disciplinary staff
- 88% of the Division is comprised of scientists and engineers
- Specialized units conduct emergency response, border truck inspections, CUPA evaluations and implement Imperial/Trinity CUPAs



EERD Organizational Structure



What does EERD Do?

- **Inspect**/investigate hazardous waste facilities
- Conduct **enforcement** for significant violations
- Perform state-wide **emergency response**
- Partner with **Environmental Justice** (EJ) communities
- Support and evaluate **CUPAs**

Key Priorities and Projects

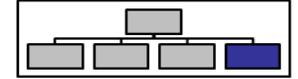
- Compliance Inspections and Enforcement
- Environmental Justice
- Violation Scoring Procedure
- Program Improvements
- Emergency Response
- Coordination with and Assisting the Permitting Division and Other DTSC Programs
- California-Mexico Border Program
- CUPA Activities and Oversight

Inspection & Enforcement Activity

Activity	2015	2016	2017	2018	2019
Inspections	362	409	525	510	451
Complaint Investigations	45	41	32	35	16
Cases Settled	9	35	37	59	47
Civil Cases (Referred to AG)	5	3	2	12	9
Settlement Dollars	\$1,287,115	\$8,766,646*	\$4,065,943*	\$3,194,308*	\$3,449,928*

*Includes civil and administrative settlements

Statewide Enforcement streamlined inspection and enforcement processes leading to faster resolution of enforcement cases



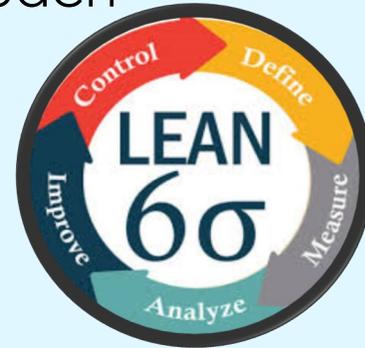
PROCESS IMPROVEMENTS

Situation



- California statute gives DTSC the authority to enter, inspect, and take enforcement action against hazardous waste generators, transporters, and operators of facilities. Statute also directs DTSC to provide an inspection report within 65 days and prioritize enforcement actions in environmental justice communities.
- Timely enforcement action leads to greater compliance, serves as deterrent to potential polluters, and promotes a level playing field among businesses managing hazardous wastes.
- In reviewing the inspection and enforcement processes, the evaluation found inefficient processes and roadblocks leading to inspection reports and enforcement actions being completed in an untimely manner.

Approach



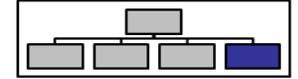
- From FY 2016-19 Statewide Enforcement implemented 4 Lean 6-Sigma (L6S) projects with the ambitious goals of:
 - ▷ Completing 90% of inspection reports within 30 days;
 - ▷ Assessing and approving 95% of administrative penalties (less than \$75,000) within 14 days of sending the inspection report to the facility;
 - ▷ Initiating enforcement actions for 90% of administrative cases (less than \$75,000) within 180 days;
 - ▷ Approving 95% of civil enforcement penalties (greater than \$75,000) within 30 days of the final inspection report submission.

Results



- Through the implementation of L6S recommendations, Statewide Enforcement has:
 - ▷ Developed a new streamlined inspection report format. (Status: 83% of reports are completed within 30 days);
 - ▷ Simplified the penalty determination process from 52 steps to 28 for administrative enforcement actions (less than \$75,000). (Status: Penalty determination average time is 321 days instead of 400 days);
 - ▷ Created a penalty determination team to eliminate multiple reviews for assessing administrative penalties (less than \$75,000). (Status: Penalty assessment average time is 65 days instead of more than 265 days); and
 - ▷ Created a new penalty matrix and violation verification tool to determine civil penalties (greater than \$75,000). (Status: Average time reduced from 265 days to 212 days)

Statewide Enforcement inspections led to the removal of 5 tons of contaminated dust from an environmental justice community and over \$800,000 in penalties for the state



USS-POSCO CASE STUDY

Situation



- The USS-POSCO steel finishing plant in Pittsburg, CA, is located about 40 miles east of San Francisco. The plant is within a community disproportionately burdened by pollution.
- In 2017, Statewide Enforcement uncovered a run-down, walled-off portion of a building where lead and zinc contaminated dust and debris had collected on the floor and were dispersed through the air and into the outdoors.
- USS-POSCO managers instructed employees to wear personal protective equipment prior to entering the contaminated area of the building, indicating the company was aware of the unsafe conditions and the dangers posed to public health and the environment. The company also failed to use waste containers, labels, inspections, and other forms of proper waste management.

Statewide Enforcement's Role



- Statewide Enforcement conducted 2 in-depth inspections of the facility in 2017 and 2018.
 - During the 2017 inspection, Statewide Enforcement collected soil samples from areas immediately surrounding the building to demonstrate the release of hazardous waste. Several samples met hazardous waste criteria for lead, zinc, and copper.
 - The 2018 inspection revealed the plant was using tanks formerly used for acid wash baths to store liquid and solid hazardous waste in unauthorized containers and not in accordance with local, state, and federal laws.

Outcome



- A civil complaint was filed against USS-POSCO in 2019. The case settled on December 12, 2019. The settlement requires USS-POSCO to:
 - Perform corrective action to remediate hazardous waste releases at its facility, including the lead and zinc-contaminated dust and soil. To date 1,500 gallons of illegally stored waste acid and 4.91 tons of contaminated dust were removed; and
 - Pay \$825,000 in civil penalties to the state, of which \$200,000 will go to the development of an online hazardous waste training course by the California Compliance School.

Inspections and Enforcement		Trainings Provided	
Inspections	269	Tiered Permitting + Tank Assessment	1 session (18 students)
Complaint	11	Haz Waste Generator Recycling	1 session (17 students)
Formal Enforcement Cases	48	HWTS Training	1 session (4 students)
Enforcement Cases Settled	34	Basic Inspector Academy	6 sessions (156 students)
Amount Settled	\$3,701,093.5	CA Compliance School	16 sessions (224 students)
		EPA DTSC Permitting and Enforcement Training	2 sessions (125 students)

Border Enforcement Activities	
Inspections	4,096
RCRA Waste (tons)	1,744
Import/Export Notifications	21
Formal Enforcement Actions	2
Penalties Amount	\$9,600

SCUPA Activities (Imperial County)	
Business Plan/Hazardous Material Plan/Inventory	160 Inspections
Hazardous Waste Generator	147 Inspections
Underground Storage Tank	80 Inspections
Aboveground Petroleum Storage Tank	48 Inspections
CalARP	0
Total Inspections	435
Complaints	13
Notifications of Hazardous Material Release review	25
Enforcement Settlement Amount	\$6,500

Business Plan/Hazardous Material Plan/Inventory	
Hazardous Waste Generator	
Underground Storage Tank	
Aboveground Petroleum Storage Tank	
CalARP	
Total Inspections	
Complaints	
Notifications of Hazardous Material Release Review	

Lean Six Sigma Improvements / KPI				
	Pre-L6S # of Days Average	Pre-L6S % w/in Timeframe	FY 19/20 # of Days Average	FY 19/20 % w/in Timeframe
Inspection Reports Completed within 30 days	37	64%	13	79%
Administrative Penalties calculated within 44 days	259	0%	53	23%
Civil Penalties calculated within 60 days	265	0%	202	0%



FY 19/20 EERD Accomplishments

CUPA Oversight		Trainings Taken	
Meeting Assistance	35	40-Hour HAZWOPER	3 attendees
Trainings Provided	27	CalEPA Basic Inspector Academy	7 attendees
CUPA Evaluation Participation	17	First Aid/AED/CPR Training	46 attendees
CUPA Evaluation Oversight Inspections	23	Aspiring Leaders	8 attendees
		EPA DTSC Permitting and Enforcement Training	70 attendees
		Leadership Academy for Managers	2 attendees
		Overview of E-Waste Management Standards	39 attendees
		Photography Training	18 attendees

ER Activities		
	Number	Cost
Off-Highway Removals	53	\$288,253
Drug Lab Removals	125	\$677,616
Total Number of Actions	178	\$965,869
Camp Fire	15 structures	n/a
Kincade Fire	Assisted Sonoma County with ER Response	n/a

Public Outreach	
Total IVAN Meetings	39
Kern	12
Fresno	10
Kings	9
Tulare	8

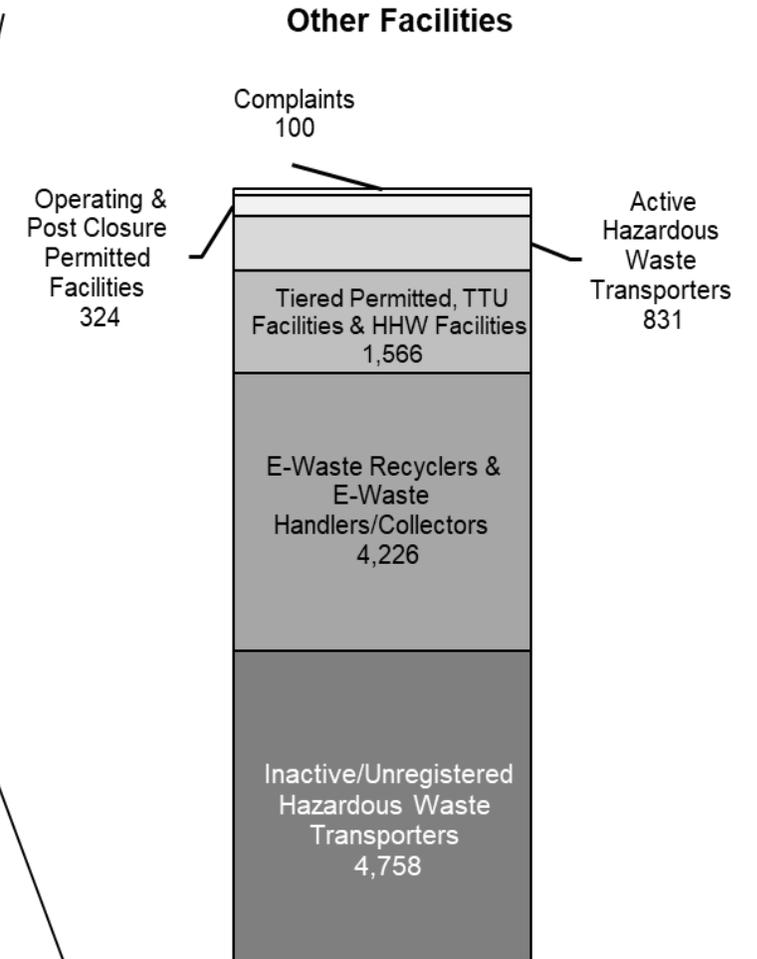
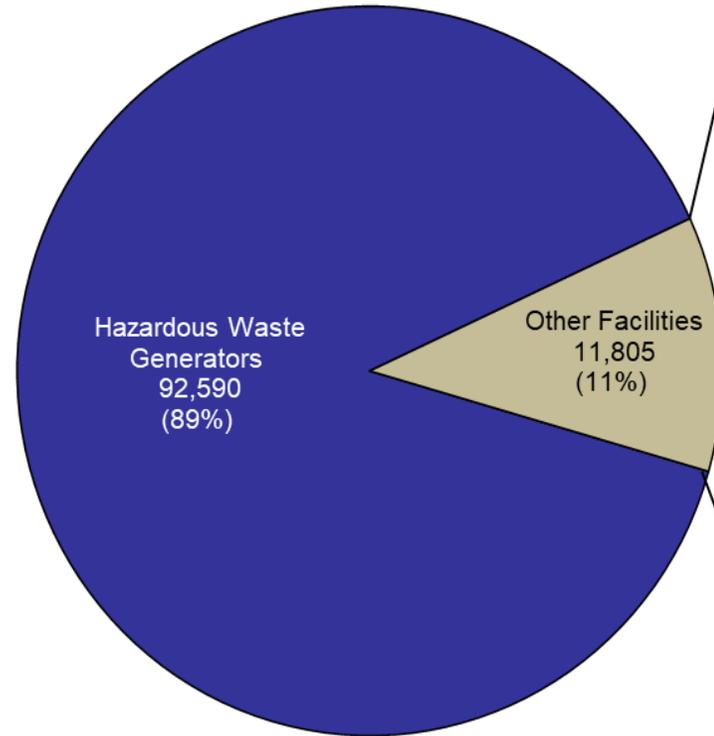
Imperial Inquiries	
Trinity Inquiries	
CUPA Evaluator Inquiries	
Number of Documents Remediated	
Toxics in Packaging	

Complaints Tracking System	
Complaints Received	723
Referred	289
Closed/Action Taken	376
Under DTSC Review	49

Interagency Refinery Task Force	
EPA RCRAInfo Calls	
Steering Committee	
Technical Advisory Groups	

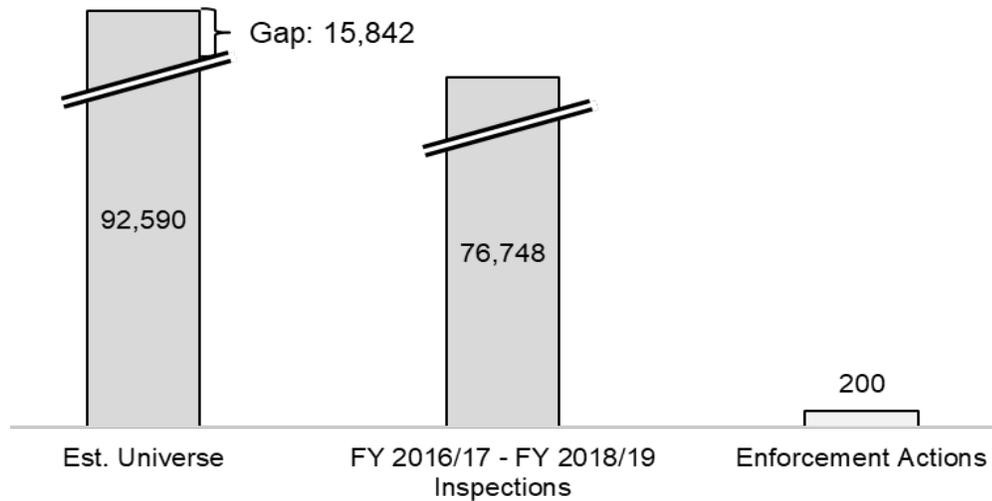
Hazardous Waste Universe Subject to Inspection (as of FY 2018-19)

Statewide Enforcement is responsible for inspecting or overseeing inspections and enforcement of over 104,000 hazardous waste generators and facilities

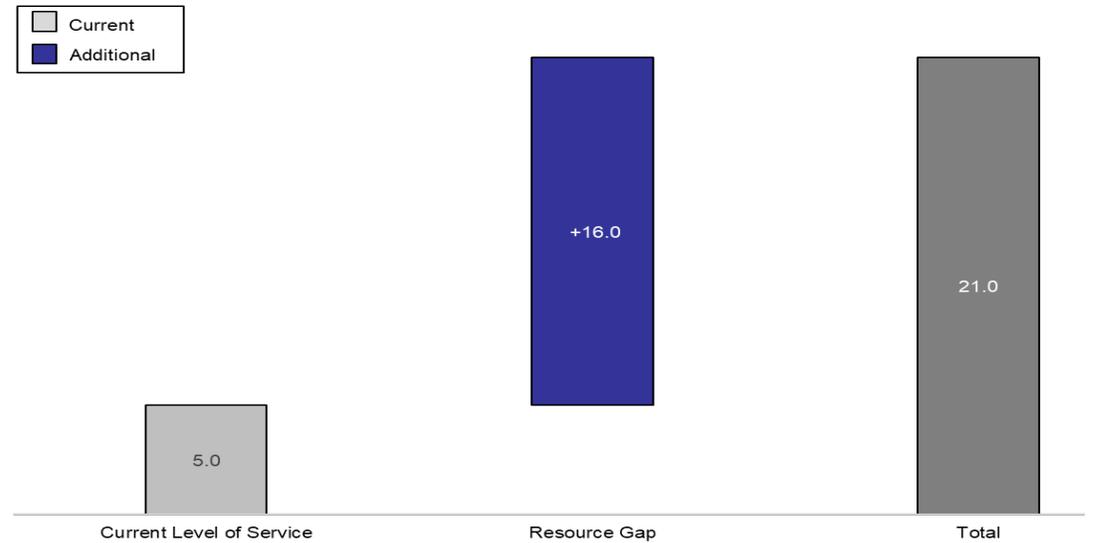


CUPAs conduct hazardous waste generators inspections

CUPA Hazardous Waste Generator Inspections & Enforcement

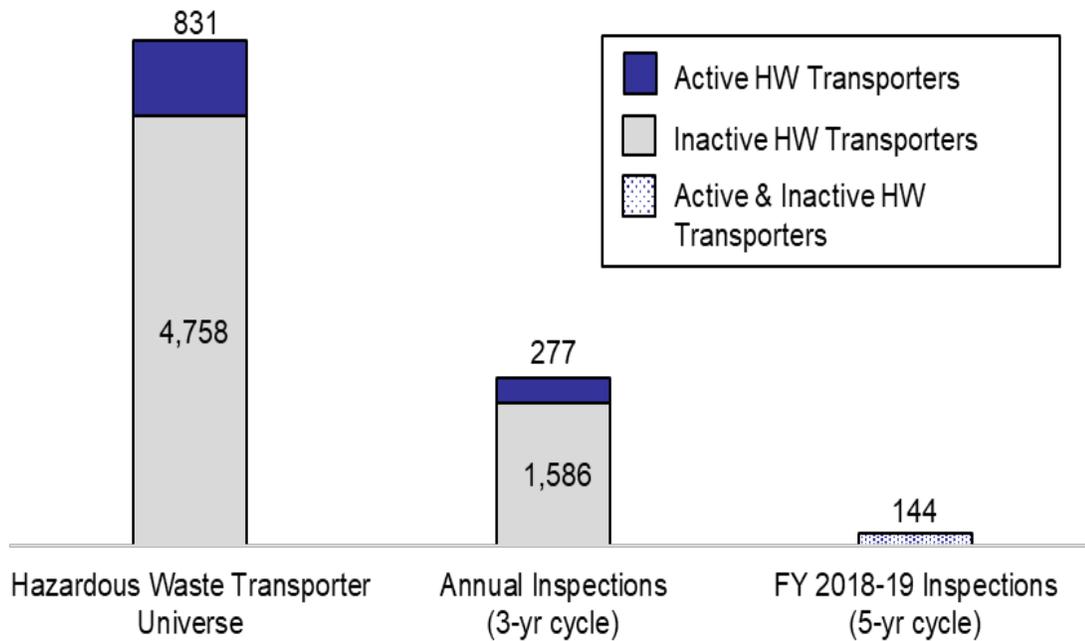


Unified Program Resource Gap^{1,2}

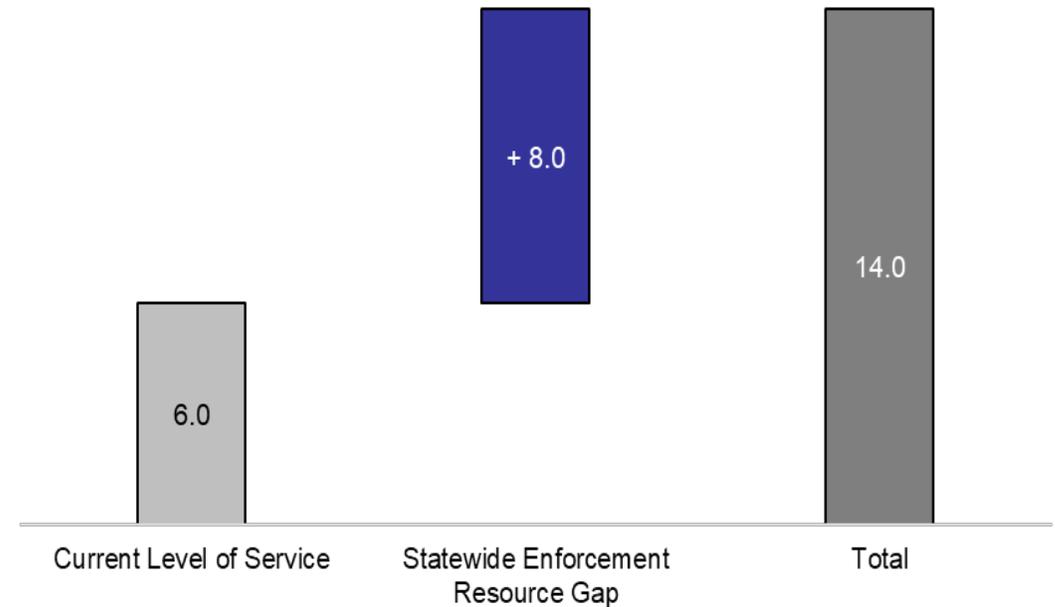


Additional resources will enable Statewide Enforcement to increase inspections of hazardous waste transporters in environmentally burdened communities

Hazardous Waste Transporter Inspections & Enforcement



Hazardous Waste Transporter Resource Gap¹



Critical Statewide Enforcement resources are currently redirected to implement VSP regulations

Area	Estimated VSP Workload	Hours per Task	Estimated Need ³
Statewide Enforcement	41 scores	229	4.0 positions
Legal			1.0 position
Permitting*	10 Dispute Reviews	563	2.0 positions
Legal			1.0 position

*See Permitting Division's workload analysis presentation for full resource needs for implementation of VSP activities.

Key Takeaways

A properly resourced Enforcement and Emergency Response Program:

- could take earlier enforcement actions,
- Prevent further spread of contamination,
- Hold Polluters accountable
- Provide technical and enforcement support to local CUPAs



Questions and Answers

- **Zoom Audio:** To use Zoom audio, use the "raise hand" feature and you will be invited to unmute audio when it's your turn
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BREAK





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CalEPA
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Policy and Program Support

WORKLOAD ANALYSIS



PPSB Ensures DTSC's Regulatory Community Manage Hazardous Waste Legally and Safely

- Our mission is to provide our stakeholders with the regulatory tools and information needed to safely manage hazardous waste



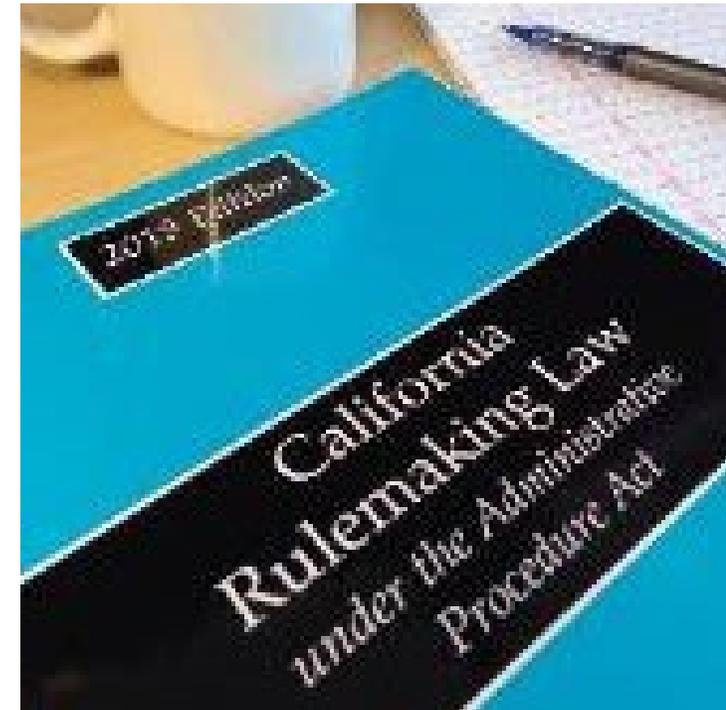
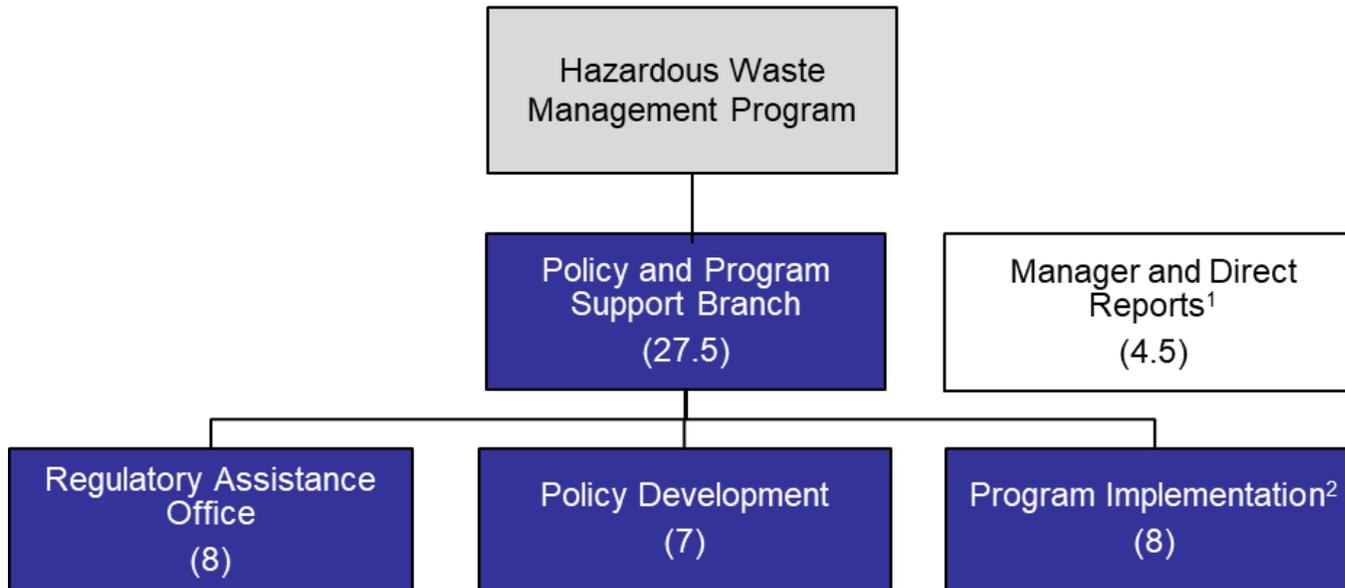
PPSB is charged with developing and interpreting statutes and regulations

- 27.5 Highly skilled scientists, engineers and multidisciplinary staff
- Provides policy and regulatory guidance
- Responsible for obtaining and maintaining authorization for the Resource Conservation and Recovery Act (RCRA) Program
- Operating budget of \$4.5 Million



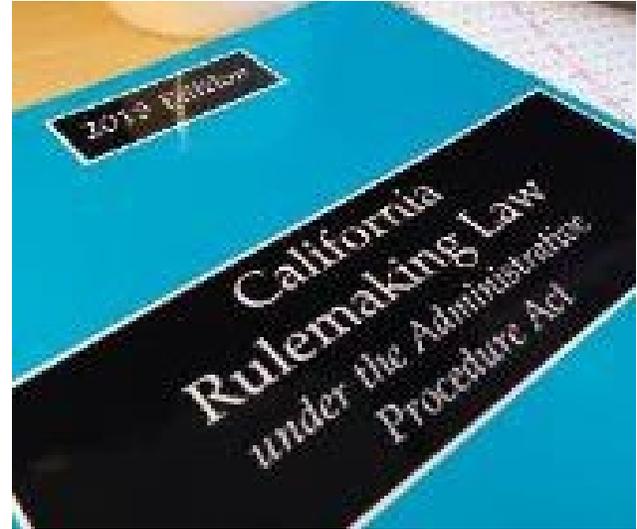
Overview of Policy and Program Support Branch

Policy and Program Support Branch (09/2018-08/2019)

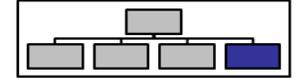


Policy and Program Support Branch FY 2018-19 accomplishment highlight

- Responded to over 6,000 regulatory inquiries
- Issued over 25 case-specific interpretive letters
- Developed over 700 written responses to partner agencies and the public
- Conducted over 75 evaluations of site-specific applications
- Managed the annual \$10 million RCRA grant and workplan



PPSB is streamlining the regulatory support response process for Certified Unified Program Agencies



CUPA SUPPORT PROCESS IMPROVEMENT

Situation



- Staff at the State's 81 local Certified Unified Program Agencies (CUPAs) lacked an effective process to vet a technical request for clarification of regulations through CUPA hierarchy before it was submitted to PPSB.
- As a result, many requests that PPSB received from CUPAs were not adequately reviewed by CUPA management staff. Identifying and correcting these inaccuracies and inefficiencies resulted in significant PPSB response delays.
- Data analysis revealed that 83% of responses were completed within 30 days and of these, 7% of formal written responses and 92% of informal responses were completed within 30 days. Ideally, PPSB would respond in less than 30 days.

Approach



- Following the Lean 6-Sigma methodology, PPSB staff conducted failure modes and effects analysis, hypothesis testing, and time-value analysis to better understand why more responses were not being completed within the 30-day window.
- PPSB found significant differences in formal and informal response times. Waiting for a CUPA requestor to clarify the scope of the issue in writing and to identify the site-specific scenario to be evaluated caused much of the delay.
- A goal was set: Complete 95% of responses to CUPA requests within 30 days.

Results



- PPSB developed new processes for CUPA question submittals, internal review decisions, and a Formal Response Checklist.
- In consultation with PPSB, CUPAs developed and implemented a policy for vetting requests prior to formal submission.
- Using these new processes, the CUPAs can resolve more requests internally, reducing the number of repeated requests to PPSB.
- Initial estimates show a soft savings¹ of \$241,200, with
 - \$54,000 due to reduced PPSB time spent on reviews; and
 - \$187,200 due to increased productivity for formal responses.

Statewide Enforcement inspections led to the removal of 5 tons of contaminated dust from an environmental justice community and over \$800,000 in penalties for the state

Situation



- Solar panels are a rapidly growing source of alternative energy, but may contain heavy metals such as cadmium, lead, and arsenic. As such, there has been growing concern over how to manage solar panels at the end of their useful life.
- Senate Bill 489 (Monning, Chapter 419, Statute of 2015) authorizes DTSC to adopt regulations to categorize hazardous waste from solar panels as universal waste subject to alternative management standards like batteries, rather than subjecting handlers to more rigorous hazardous waste management requirements. Management as universal waste also supports diversion of the waste from municipal landfills.
- The 100 Percent Clean Energy Act of 2018 established a policy framework for increasing the use of renewable energy resources in California. The California Energy Commission adopted building standards that require the installation of solar powered systems on all new homes starting in 2020 (California Code of Regulations, Title 24, Part 6).

PPSB's Role



- PPSB conducted technical literature research and scientific studies to determine what levels of cadmium, lead, and arsenic in solar panels require regulation as hazardous waste.
- Prior to beginning rulemaking, PPSB held several workshops with industry stakeholders and collaborated with other regulatory agencies to understand technologies, identify existing regulatory requirements, and identified options for cost effective management of end-of-life solar panels.
- PPSB developed a regulatory framework for capturing data on solar panel handlers based on its existing model for electronic waste and cathode ray tubes.
- PPSB drafted regulations on the management of end-of-life solar panels as universal waste and conducted public workshops, reaching out to the business community, environmental advocates, and other regulatory agencies.

SOLAR PANELS CASE STUDY

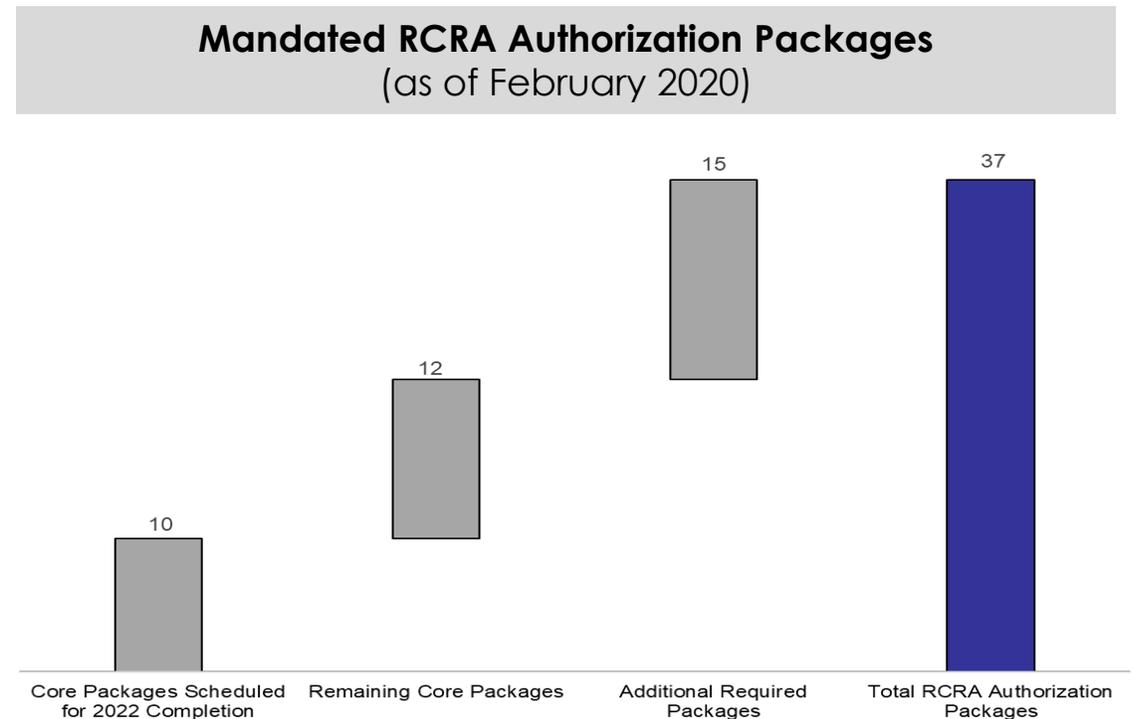
Outcome



- PPSB completed an application package seeking authorization to administer the state universal waste management standards. The application included an analysis of state regulations for managing universal waste in comparison to federal management standards, determining that state regulations were either equivalent or more stringent than federal regulations.
- PPSB received authorization from U.S. EPA to implement the federal Universal Waste Program in January 2020, allowing DTSC to add new waste streams such as solar panels.
- Final approval of the proposed regulations for management of solar panels as universal waste is expected in the spring of 2020.
- Once in effect, the regulations will allow solar panel handlers and recyclers to safely and efficiently manage end-of-life materials under the regulations' self-implementing alternative management standards instead of pursuing time-consuming and costly hazardous waste permits.

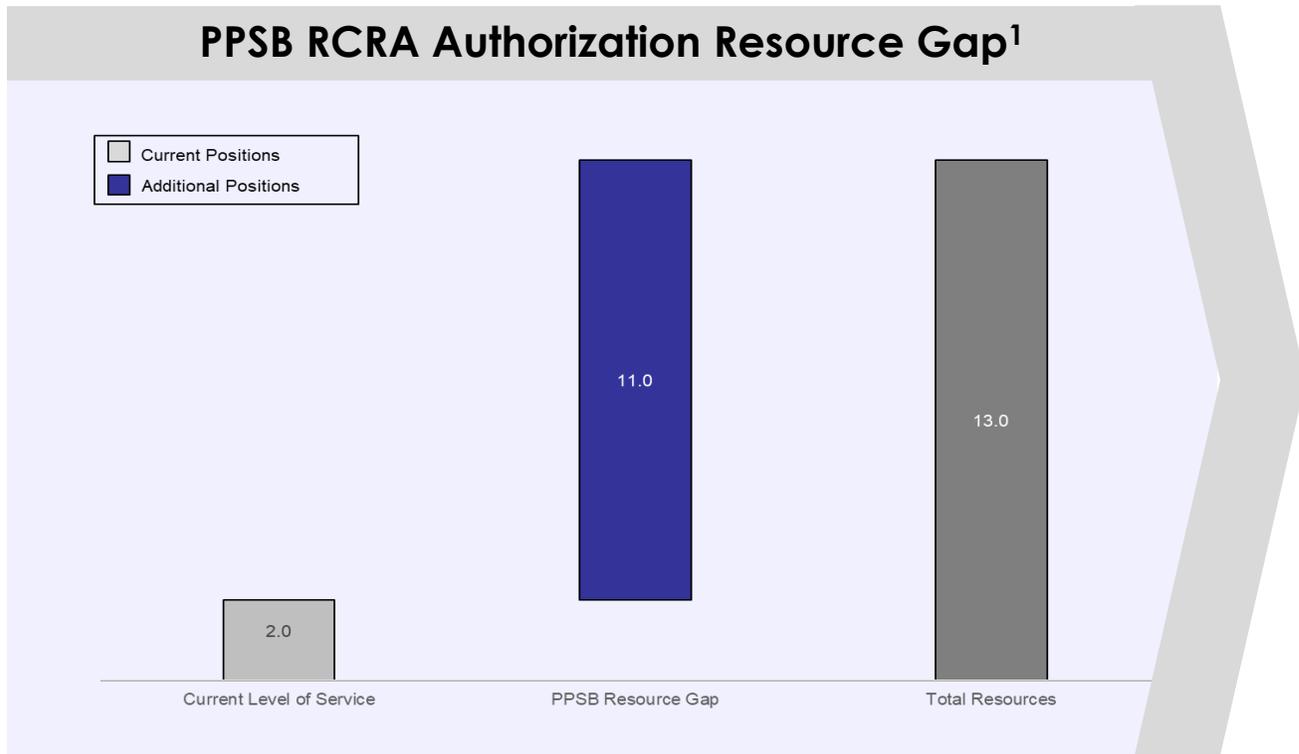
With current resources, PPSB estimates it will complete RCRA authorization for all current, required packages by 2035

- DTSC is required to maintain U.S.EPA RCRA Authorization
- DTSC must adopt 22 Core RCRA rules by September 2022
- DTSC must adopt additional 15 RCRA rules not considered as “core”
- Currently, 2 staff are available



A minimum of 11 additional positions is needed to avoid serious consequences

RISK REDUCTION



Key Observations

- PPSB must meet its legislative mandates to maintain RCRA authorization, it risks
 - ▷ Losing its authority to enforce RCRA requirements;
 - ▷ Losing its authority to issue RCRA permits for hazardous waste facilities;
 - ▷ Losing \$10 million annually from U.S. EPA to administer the RCRA program.

DTSC is focusing on source reduction by reinstating the Pollution Prevention Program

- The Hazardous Waste Reduction, Recycling, and Treatment Research and Demonstration Act of 1985 and Hazardous Waste Source Reduction and Management Review Acts of 1989 provided the framework for DTSC's Pollution Prevention (P2) program. The statutes required that DTSC establish a technical and research assistance program to assist generators in identifying and applying methods of source reduction and other hazardous waste management approaches. They also provided the first regulatory mandate for industries that generate larger waste quantities to systematically examine opportunities for reducing the generation of hazardous waste at the source. These statutes did not, however, require that large generators implement strategies for reducing hazardous waste generation.
- Source reduction includes:
 - ▷ Input changes in materials or feedstocks;
 - ▷ Production process changes, such as reusing materials within a given process;
 - ▷ Product reformulation/substitution, including changes in specifications of end products; and
 - ▷ Operational improvements to improve site management, such as inventory control and training.
- DTSC is no longer resourced to support the Pollution Prevention program.



- Under the Source Reduction Act (SB 1916) of 1998, the P2 program conducted activities in 9 industrial sectors to provide the resources necessary to reduce their generation of hazardous waste. Activities included:
 - ▷ Developing P2 trainings for the auto body and paint industry. There are over 8,000 body and paint shops in California. The most common hazardous waste generated at these shops are spent solvents mixed with paint waste. Air emissions from paint application and paint-gun cleaning present the greatest concerns to surrounding communities; and
 - ▷ Working with the Chemical Industry Council of California to promote pollution prevention within California's chemical industry by offering recognition to individual facilities for their environmental achievements.
- Establishing a technical assistance and outreach project with the marine vessel service and repair industry to educate boat yards and marinas in effective P2 strategies. This effort included visits to over 20 boat yards and marinas to identify P2 opportunities, the creation of technical fact sheets, and technical trainings;



The Pollution Prevention Program will identify hazardous waste management alternatives to reduce hazardous waste destined for disposal

RISK REDUCTION

Pollution Prevention Resource Needs¹

- In late 2019, CalEPA conducted public workshops to obtain feedback about DTSC's structural reforms. Stakeholders consistently referenced their desire that the P2 program be resourced so that the work of identifying alternatives and best management practices to reduce hazardous waste pollution could resume. This work, if resourced, would fund activities that address emerging chemicals and technology, and waste classification and hazardous waste trend analysis. Based on DTSC's experience with delivering an effective P2 program², a minimum of 23 positions would be required to deliver the following activities:
 - ▷ Researching wastes containing chemicals of emerging concern;
 - ▷ Evaluating treatment technologies;
 - ▷ Developing protocols and criteria for hazardous waste data trend analyses on wastes generated in California;
 - ▷ Identifying approaches to reduce targeted waste streams;
 - ▷ Analyzing and interpreting hazardous waste data collected from technical research and report findings to the public and scientific community;
 - ▷ Developing policies, statutory and/or regulatory changes, to protect public health and the environment; and
 - ▷ Determining the applicability of federal and state statutory and regulatory exemptions and exclusions to case-specific hazardous waste applications.

Pollution Prevention Program Outcomes



- Potential outcomes of the proposed P2 program include:
 - ▷ Development of industry-specific, field tested pollution prevention practices;
 - ▷ Dissemination of industry-specific information to local government inspectors, pollution prevention staff, and businesses via training, workshops, and seminars;
 - ▷ Implementation of recognition programs for local governments and businesses that promote, assist, and/or adopt cost-effective, environmentally beneficial practices;
 - ▷ Establishment of pollution prevention partnerships to promote and implement pollution prevention practices; and
 - ▷ Establishment of new partnerships with California businesses to promote and implement pollution prevention practices.

Key Takeaways

- PPSB estimates it would need 34 Positions for:
 - RCRA Authorization Activities
 - Renew Pollution Prevention Program



Questions and Answers

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Permitting Division

WORKLOAD ANALYSIS





DTSC protects 40 million Californians



Permitting Division

- 65.5 positions in 8 organizational units
 - 79% engineers and scientists
 - 21% administrative
- Permit decisions and permit maintenance
- Specialized units for CEQA, financial assurance, grant management, universal waste, and organizational development

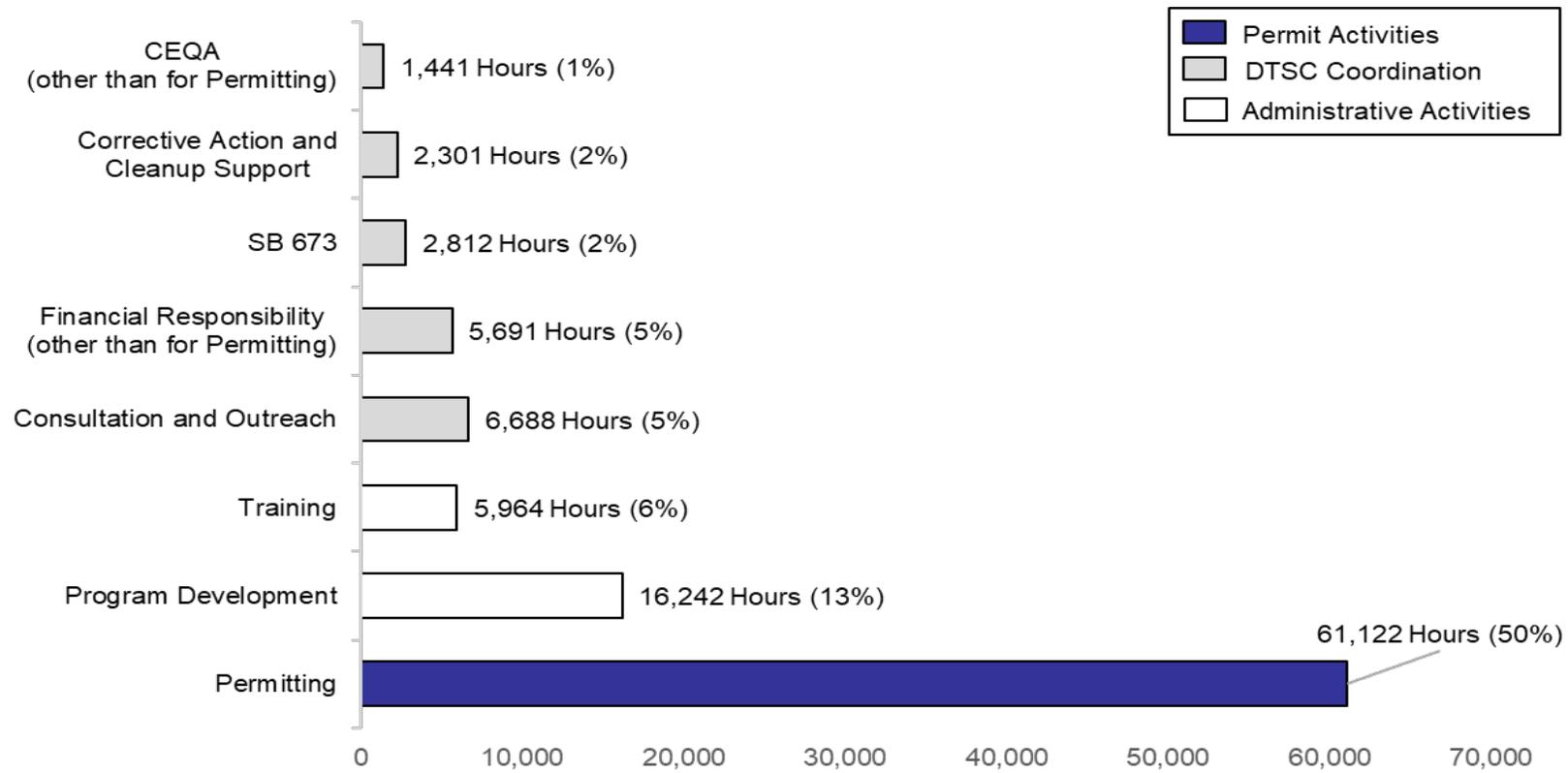
Overview of Permitting Division

- Issue Permit Decisions for HW Facilities
- Maintain and Enforce Financial Assurance requirements
- Evaluate Environmental Impacts (CEQA)
- Adopt Permitting Criteria to Consider Facility Compliance History



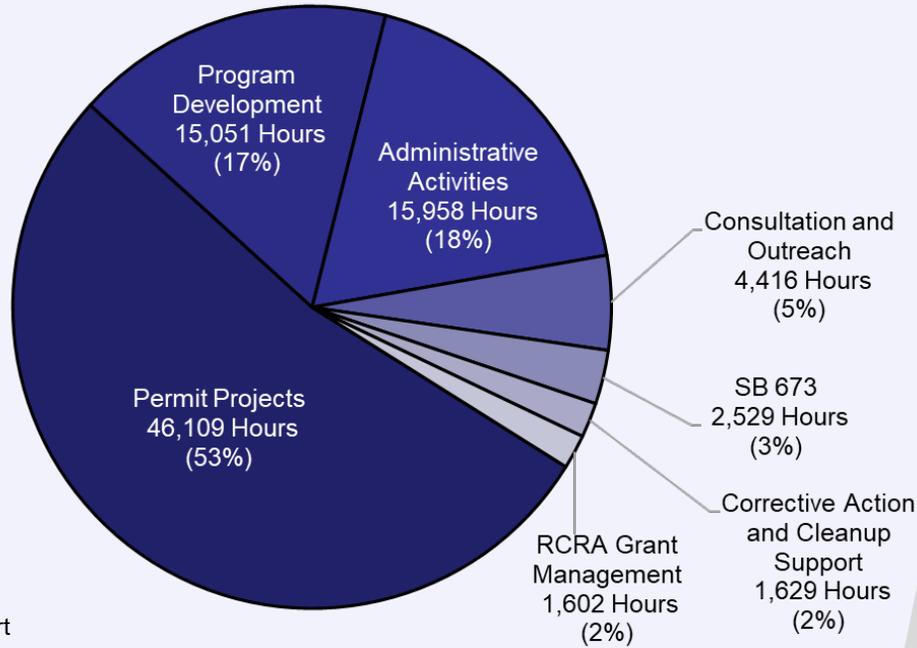
Located in Chatsworth, Berkeley, Cal Center, and HQ

Permitting Division Hours by Work Category (FY 2018-19)



70 percent of Permitting staff hours are for permitting projects and program development

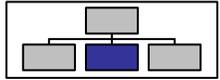
Permitting Units' Hours^{1,2} by Work Category (FY 2018-19)



SOURCES: Appendix D
NOTES: (1) Activity IDs and Project IDs were grouped into larger work categories in collaboration with program staff. (2) Leave is not included in the chart above. Percentages do not include leave.

Key Observations

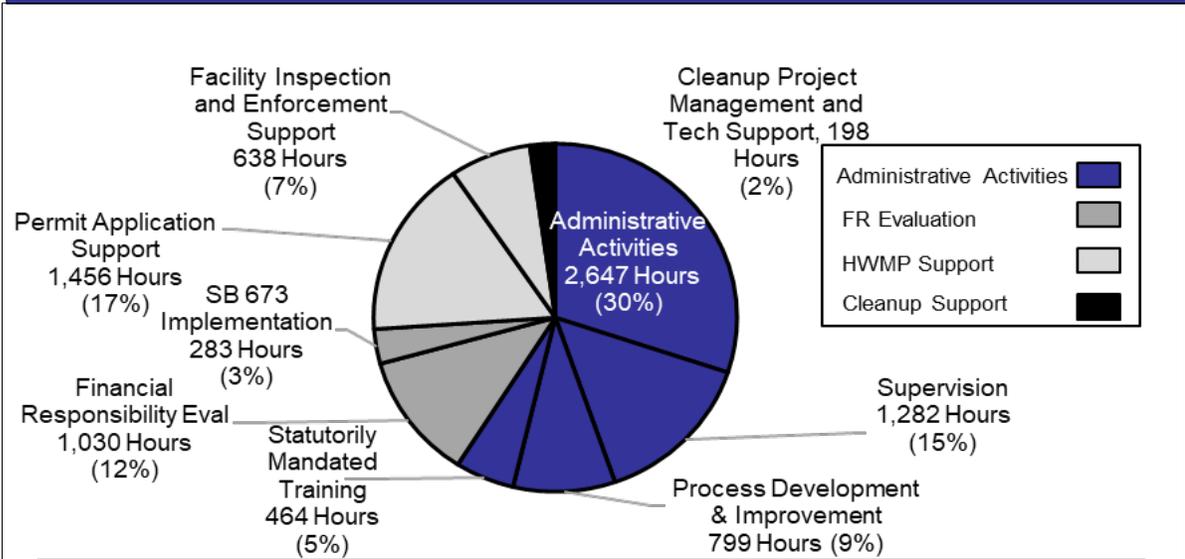
The bulk of hours include reviewing applications and operations for compliance with permitting standards and requirements and managing Fee-for-Service (FFS). FFS work includes work on permit applications received after April 1, 2016. DTSC FFS documentation and procedures are required to comply with HSC §§ 25206.1-25206.4 when seeking cost reimbursement for processing applications. 18% of hours were for administrative activities including statutorily mandated training, health and safety compliance, hiring, budget management, database management, strategic planning, staff meetings, and other tasks. 5% of hours represent consultation and outreach, including maintenance of the EnviroStor data management system, developing and delivering training, and consultative work with the HWMP and the public on hazardous waste permitting issues. SB 673 represents 3% of Permitting units' hours. After Statewide Enforcement determines violations scoring tiers, Permitting is mandated to implement special facility requirements based on tiers. As SB 673 workload shifts onto Permitting, associated hours are expected to significantly increase. 2% of hours involved corrective action activities and supporting Site Mitigation and Restoration Program (Cleanup) to mitigate risk at a post-closure or closure site per HSC § 25247.



RESOURCES

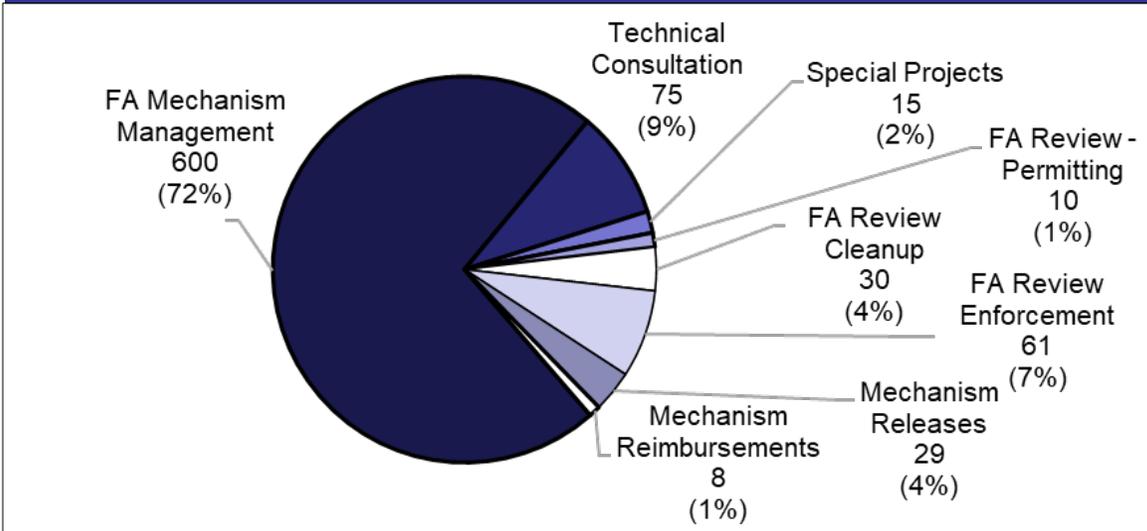
Permitting's Financial Responsibility unit monitors funding adequacy for facility closure and cleanup activities

Financial Responsibility Unit Hours^{1,2} by Work Category (FY 2018-19)



- The Financial Responsibility (FR) unit reviews and assesses the adequacy of financial assurance mechanisms for Permitting, Statewide Enforcement, and Cleanup. Financial assurance is essential to oversee that adequate resources are available to perform closure and cleanup in a timely manner to protect California's residents from toxic harm.
- 41% of the FR unit's hours were devoted to core functions of supporting permit decisions, implementing new SB 673 financial assurance (FA) requirements, evaluating financial responsibility, and providing support to Statewide Enforcement and the Cleanup Program.
- Note that supervisory time in the FR unit includes time spent on technical review of financial analyses performed by staff.
- 30% of time is spent on administrative functions including time spent logging and filing financial mechanisms for approximately 450 sites. The FR unit receives over 600 documents per year that require administrative and data management tasks. In addition, the supervisor and financial analysts receive general inquiries from facilities which cannot be charged directly to a site.

Financial Responsibility Unit Major Outputs (FY 2018-19)

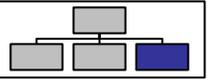


- The FR unit reviews and monitors \$2.5 billion FA mechanisms for approximately 450 sites under DTSC's jurisdiction. Many of these sites have more than 1 mechanism, as reflected in the 600 FA mechanism management tasks shown. FA mechanism management tasks include tracking of annual updates to the mechanisms and logging of receipt and filing of hardcopy FA mechanisms.
- The FR unit performed 75 technical assistance tasks for DTSC project managers, the regulated community, and financial institutions.
- The FR unit reviewed 10 FA mechanisms in support of processing permit applications.
- 61 FA mechanisms were reviewed for Statewide Enforcement as a part of facility compliance inspections.
- 30 FA mechanisms were reviewed for Cleanup Program projects.
- 29 FA mechanisms were released.
- The FR unit also supported 15 special projects for the Permitting Division.

SOURCES: See Appendix F and G

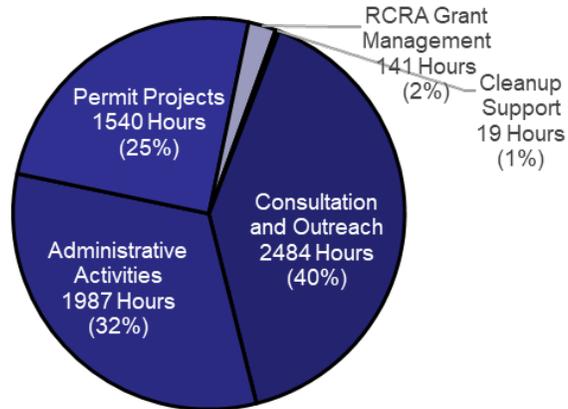
NOTES: (1) Activity IDs were grouped into larger work categories in collaboration with program staff.
 (2) Leave is not included in the hours above. Percentages do not include leave.

Permitting's CEQA unit reviews permit applications and technical consultation projects to CEQA standards



RESOURCES

CEQA Unit Hours by Work Category^{1,2} (FY 2018-19)



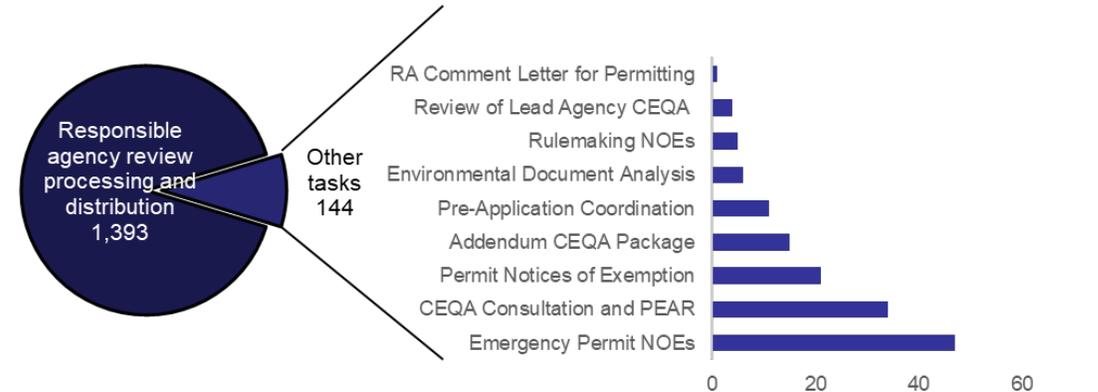
- The CEQA unit spends 25% of their hours directly on permit-related projects. This includes analyzing impacts to associated permit decisions, preparing notices of exemption, reviewing CEQA documents from another lead agencies, coordinating pre-application activities, CEQA consultation and Preliminary Environmental Assessment Reports (PEAR), and preparing addendums to CEQA documents.
- Approximately 40% of time is devoted to Technical Consultation and Support, including Responsible Agency Comment Form Letters and CEQA document review as responsible agency for hazardous waste issues.
- As 1 of 2 central CEQA resources units for DTSC, the Permitting CEQA unit devotes 32% of hours to general administrative activities, supervision, and rulemaking activities.
- 3% is applied to support the RCRA Grant reporting and cleanup efforts.

SOURCES: See Appendix H and I

NOTES:

- (1) Project IDs and Activity IDs were grouped into larger work categories in collaboration with program staff.
- (2) Leave is not included in the hours above.
- (3) No Initial Studies, Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports, Subsequent CEQA Documents, Supplemental Environmental Impact Reports were prepared by Permitting CEQA in FY 2018-19.

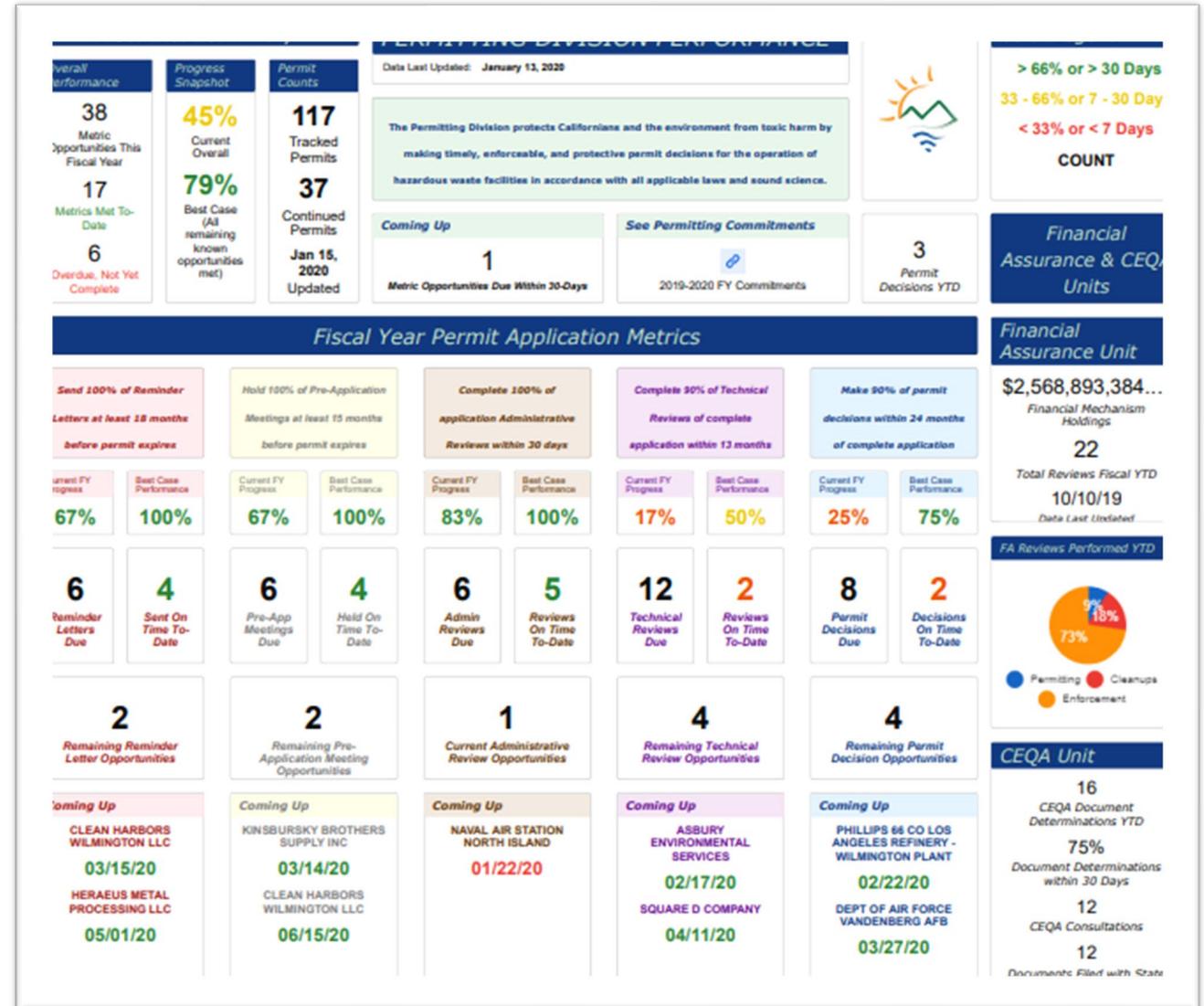
CEQA Unit Major Outputs³ (FY 2018-19)



- In FY 2018-19, the CEQA unit processed 1,393 requests for DTSC review of CEQA documents as Responsibility Agency (RA) for hazardous waste issues (PRC §§ 21080.3 and 21081.6(c)).
- 1 Responsibility Agency Comment Letter for Permitting was prepared.
- 4 permitting projects, prepared by another lead agency, were reviewed.
- The CEQA unit reviewed 5 rulemakings which resulted in Notice of Exemptions (NOEs).
- 6 Environmental Data Analyses were prepared, evaluating prior CEQA documents prepared for an activity that is part of a permitting project.
- The CEQA unit supported 11 pre-application coordination activities on permitting projects.
- 15 addenda were prepared to support permitting projects. Addenda are prepared to append updated information to existing CEQA documents.
- 21 NOEs were prepared for permitting decisions (standardized and RCRA permit types).
- 34 consultations were performed as part of a Preliminary Environmental Assessment review, to support external lead agencies beginning the CEQA process for a project that includes a permitting project.
- 47 NOEs were prepared to address emergency permits.

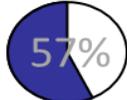
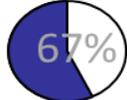
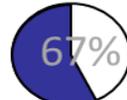
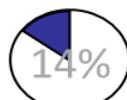
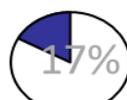
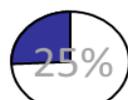
Process Improvement and Development

- Permitting transformed the permitting process over the last 6 years, significantly reducing the time to make permit decisions. Permitting undertook critical Lean 6-Sigma projects.
- The division developed dashboards, guidance documents, checklists, trainings, and additional materials.

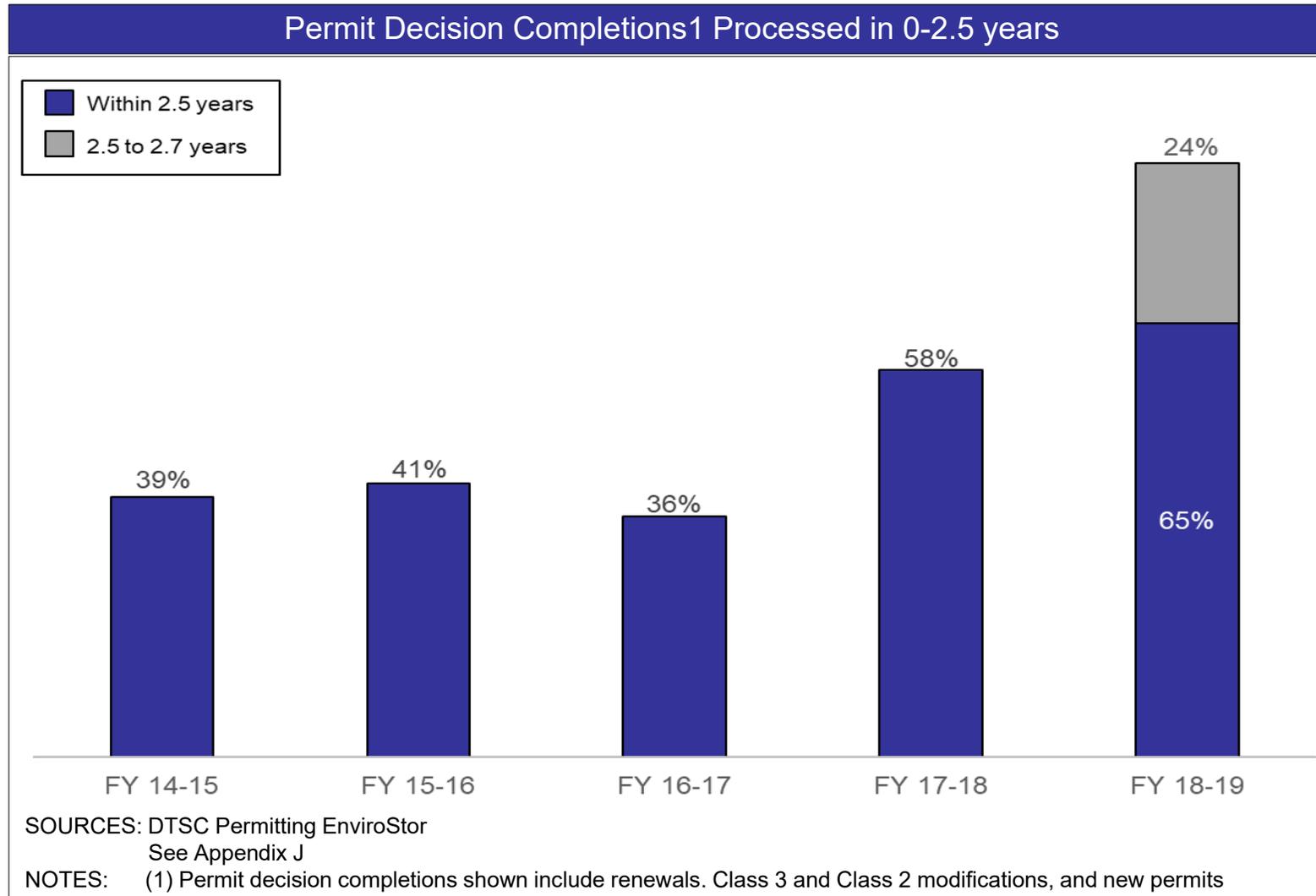


The Permitting Division continues improving in all key performance metrics

PROCESS IMPROVEMENT

Permit Application Metrics ¹				
Metric	FY 2018-19	Minimum Expected Outcome FY 2019-20	Best Case Outcome ² FY 2019-20	Comments
Send 100% of Reminder Letters at least 18 months before permit expires				Permitting is on track to send 100% of Reminder Letters by the end of the fiscal year. Because the due dates for the metrics were not consistently visible throughout the division, Permitting developed a dashboard to remind project managers, supervisors, and managers of upcoming deadlines.
Hold 100% of Pre-Application Meetings at least 15 months before permit expires				Permitting is on track to hold 100% of Pre-Application Meetings by the end of the fiscal year. Applicants have no legal obligation to meet with DTSC during this time, but DTSC has been successful in setting up meetings to discuss expectations thus reducing costs and time associated with reviews of permit applications.
Complete 100% of application initial Administrative Reviews within 30 days				100% of all administrative reviews expected in FY 2019-20 have been completed on time.
Complete 90% of Technical Reviews within 13 months of administratively complete application (Goal for FY 2024-25)				Permitting expects to achieve 90% by FY 2024-25. In FY 2019-20, Permitting is on track for up to 27%. Challenges include time required to conduct more comprehensive review, and the need for more robust tank assessments, closure cost estimates, and seismic evaluations from applicants. Nevertheless, Permitting has reduced the timeframe for technical reviews from 45 months prior to October 2014 to 20 months in FY 2018-19.
Make 90% of permit decisions within 24 months of administratively complete application (Goal for FY 2024-25)				Permitting expects to achieve 90% by FY 2024-25. In FY 2019-20, Permitting is on track for no lower than 25%. This is tied to completion of technical reviews. Challenges are as described above. Nevertheless, Permitting has reduced the timeframe for permit decisions by almost 2 years.

Permitting has increased the number of permit decisions processed within 2.5 years



PROCESS IMPROVEMENT

- The division set an aggressive goal of completing 90% of permit applications within 2 years for renewals and new permits. Permitting has already reduced the average time it takes to make a permit decision from 4.5 years to 2.6 years. The division continues to work towards the 2-year mark while performing more comprehensive permit application reviews and providing increased opportunities for public input.
- In addition, Permitting improved public accessibility to project documents, reduced the time for CEQA document decisions, implemented intradepartmental efficiencies, and reduced the processing time for tank assessment engineering reviews. These improvements contribute to the success of Permitting's goal of 2-year permit decisions for 90% of permit applications.
- The percentage of permit decision completions done within 2.5 years increased by 26% since FY 2014-15.
- 65% of permit decisions were made within 2.5 years in FY 2018-19. Of the 6 completed in over 2.5 years, 4 were completed in 2.7 years.
- With the addition of new staff and implementation of L6S recommendations, Permitting process times fluctuated, due to incorporating new documents, checklists, and additional process improvements. Beginning FY 2017-18, Permitting processes were more stable and show demonstrable improvement.

SB 673 is helping Permitting provide transparency and protect environmental justice communities

RISK

Background



- DTSC is mandated by statute to develop and implement regulations for new permitting criteria.
- In FY 2014-15, DTSC conducted a series of stakeholder engagements to address concerns. Stakeholder interviews identified the following:
 - ▷ The need to create clear and objective criteria for making permit decisions based on valid standards of performance and risk
 - ▷ A clear standard for violations that would lead to denial or revocation
 - ▷ The need to document and provide a “scorecard” of facility attributes to consider in permitting decisions

SB 673

2019 Facility VSP Scores and Compliance Tier Assignments

Click on Facility Name to view Violation Scoring Matrix

Updated January 23, 2020

Show 10 entries

Search:

Facility Name	EPA ID Number	City	Facility VSP Score	Compliance Tier
Chevron USA Inc., Richmond Refinery	CAD009114919	Richmond	3.75	Acceptable
The Dow Chemical Company	CAD076528678	Pittsburg	2.50	Acceptable
Edwards Air Force Base	CA1570024504	Edwards	1.50	Acceptable
Safeway-Kleen of California Inc. Davis	CAD0987446874	Davis	1.50	Acceptable

- In 2015, the Governor signed SB 673 to strengthen protections for public health and the environment at hazardous waste facilities. As part of SB 673, 5 new permitting criteria were added, one of which was the violations scoring procedure. The violations scoring procedure (VSP) strengthens decision-making around the permit decision process by:
 - Establishing an objective scoring process to evaluate the compliance track record of permitted facilities. Facilities are assigned a compliance tier of “acceptable,” “conditionally acceptable,” or “unacceptable” based on violation scores.
 - Calculating and publishing VSP scores annually. Facilities assigned to the “conditionally acceptable” or “unacceptable” compliance tiers are subject to either additional conditions or permit denial, revocation, or suspension.

DTSC did not receive resources to implement SB 673

Resources redirected to implement SB 673 have impacted other permit decisions

RISK REDUCTION

SB 673 VSP Workload Estimate¹

Area	Estimated VSP Workload	Hours per Task	Estimated Need
Statewide Enforcement	41 scores	229	4.0 positions
Legal			1.0 position
Permitting	10 Dispute Reviews	563	2.0 positions
Legal			1.0 position

- Implementation of VSP requires effort from Statewide Enforcement (Enforcement), Office of Legal Counsel (Legal), and Permitting, for initial scoring and for response to facility disputes of scores.
- Enforcement's 4 environmental scientists are responsible for scoring the violations.
- Permitting will be responsible for implementing special requirements for facilities based on final VSP scores.
- Legal works with Enforcement and Permitting to provide legal advice regarding whether requirements and conditions are met, to respond to disputes, and to help address violations quickly to protect public health and safety.
- As DTSC continues to fully implement the requirements of the VSP regulations, public engagement support will be needed that will require additional resources in the Office of Environmental Equity (OEE).
- More demands will be placed on Permitting staff as a result of the future SB 673 Track 2 permitting criteria for cumulative impacts and community vulnerability, not reflected in the estimate above. These regulations are being developed by Permitting staff and expected to be promulgated in 2021 for implementation in 2022.

SOURCES: See Appendix O and P

- NOTES:
- (1) This figure depicts Permitting's resource needs. Resources will be needed in other DTSC programs to support these activities.
 - (2) In FY 2018-19, Statewide Enforcement's 57 inspectors completed 395 inspections, or about 7 inspections per person. If each of the 4 reallocated positions completed 7 inspections, that equates to a loss of 28 inspections.
 - (3) In FY 2018-19, permit decisions spanned 1,295 hours and 2.5 years, on average. This equates to approximately 518 hours per year per permit. Factoring the working hours per staff by 2, dividing by 518 hours and dividing by the permit decision time frame equates to nearly 3 less permit decisions over the course of 2.5 years.

Resource Allocation for VSP

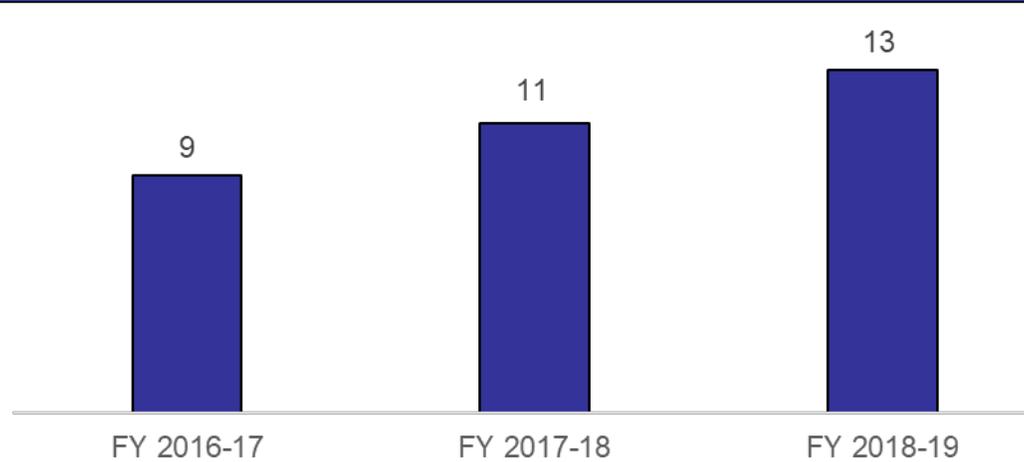
Area	Reallocated Resources	Hours per Task	Estimated Program Loss
Statewide Enforcement ²	4.0 positions	~7 inspections/inspector	~28 less inspections ¹
Permitting ³	2.0 positions	1,295 hours/permit decision	~3 less permit decisions ²
Legal	2.0 positions	N/A	-

- The permit decision pipeline gets clogged by lack of capacity in other programs and offices on which Permitting relies. The contributions of staff in other programs are critical to the enforceability, defensibility, and transparency of permit decisions. DTSC is unable to make timely permit decisions without sufficient support from these shared services and support programs.
- On average, Permitting spends approximately 1,295 hours over 2.6 years on a permit decision. Over those 2.6 years, reallocating 2 positions reduces outputs by nearly 3 permit decisions.
- Permitting works closely with Enforcement so that that hazardous waste facility permits are clear and enforceable. Enforcement is responsible for inspecting permitted facilities to see that they are operating within the terms of their permits and, when necessary, for taking enforcement actions with the help of Legal. In FY 2018-19, Enforcement spent 3,993 hours in support of Permitting. Reallocating positions from Enforcement will diminish their ability to support Permitting.
- Legal works closely with Permitting so that DTSC issues hazardous waste facility permits that meet statutory and regulatory requirements and are enforceable. The program also represents Permitting in administrative proceedings including permit denials, suspensions, and revocations. In addition, Legal provides support on CEQA as part of the permit decision process. Therefore, reallocation of positions for VSP work from Enforcement will diminish their ability to support Permitting.

The CEQA unit is faced with increased demands to support permit decisions and to fulfill DTSC's role as lead agency for hazardous waste

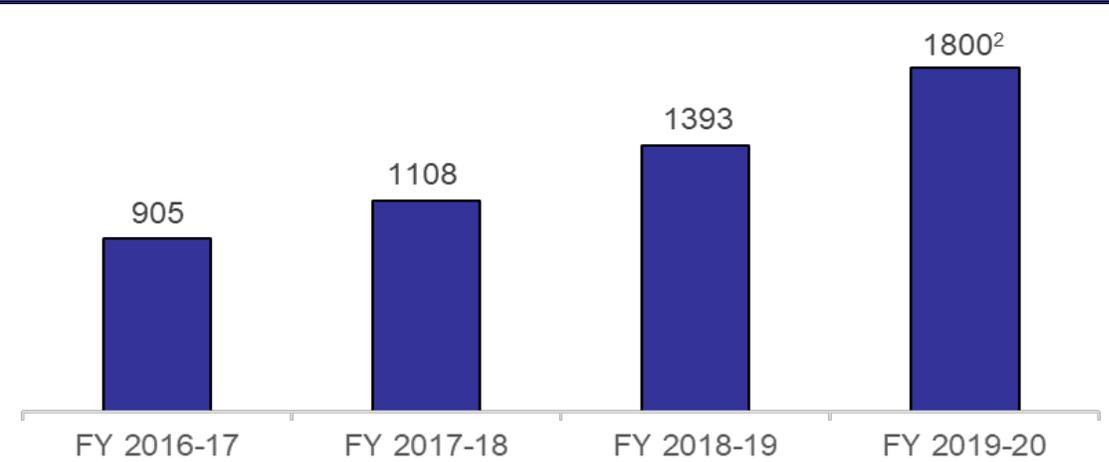
RISK

New and Renewal Permit and Class 3 Mod. Permit Decisions



- The CEQA unit provides a CEQA analysis for each DTSC hazardous waste permit decision.¹
- From FY 2016-17 to FY 2018-19, Permitting processed a total of 33 permits at an average rate of 11 per year. Over the 3-year period, the number of annual decisions has increased by 2 permits per year.
- Permitting's CEQA unit is currently allocating 3 staff to supporting permitting decisions, and its current staffing levels are sufficient to address the current Permitting workload.

CEQA Document Review Requests

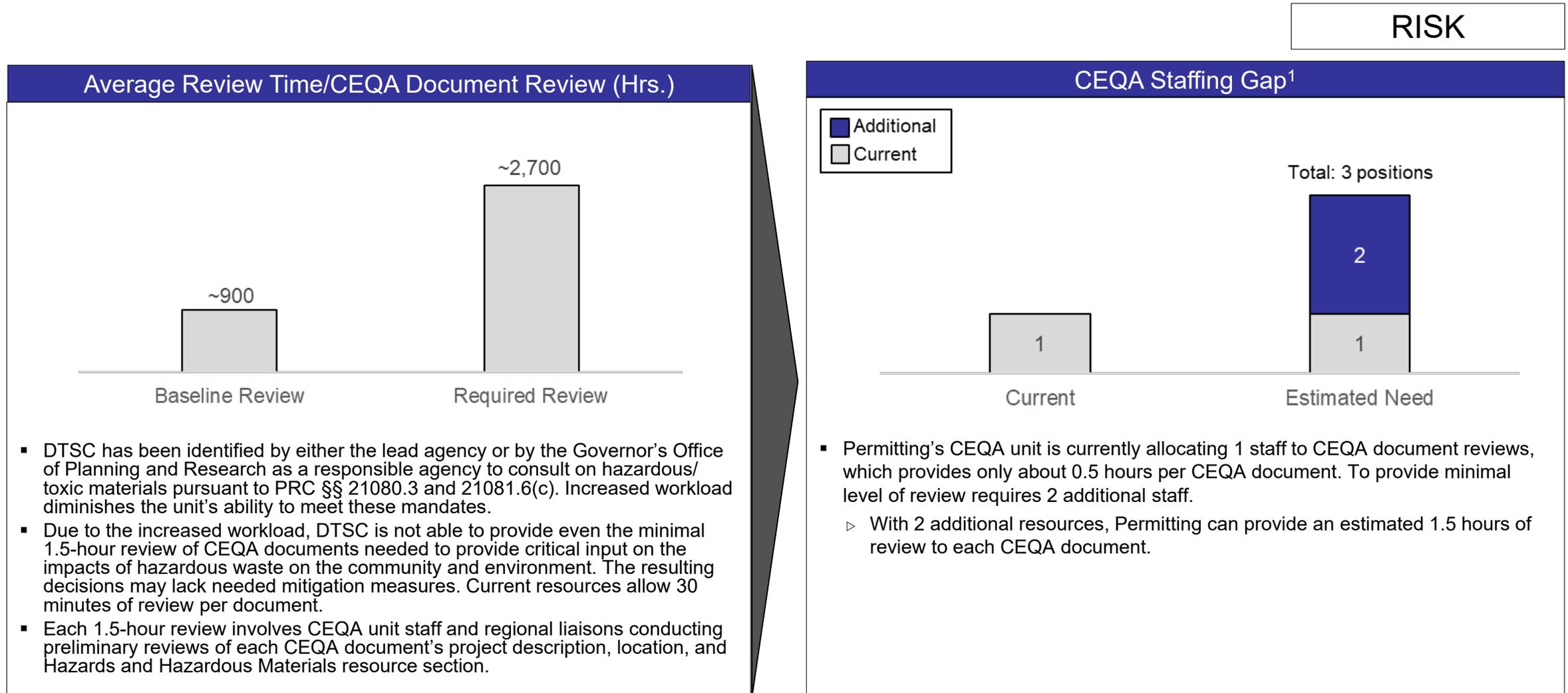


- DTSC is charged with reviewing hazards and hazardous materials impacts in CEQA documents submitted for review by other local governments and other state agencies that seek out DTSC's expertise. These reviews give DTSC a unique and time-sensitive opportunity to assess proposed discretionary projects and make recommendations to prevent or mitigate human and environmental harm.
- For example, a CEQA document may state that a proposed development is next to a hazardous waste facility. DTSC has the opportunity to review handling of the facilities' waste and provide feedback to the lead agency to mitigate risks.
- Over the last 4 years, requests have doubled due to the State Clearinghouse's new online submission system, an increase in the number of land development projects, and increased understanding of DTSC's role in protecting the environment.

SOURCES: State Clearinghouse

NOTES: (1) See Appendix N for CEQA responsibilities in the Permitting process.
(2) Estimate for FY 2019-20 based on annualizing current level

Increasing levels of CEQA document review requests diminish review periods



NOTES: (1) This figure only depicts Permitting's resource needs. Resources will be needed in other DTSC programs to support these activities.

Resource Gap Analysis

- SB673 Violation Scoring Procedures
 - 2 additional project managers
 - 2 attorneys needed
- CEQA review
 - 2 additional planners are needed

Key Takeaways - Permitting

- Additional positions will enable Permitting to address two unfunded services
- Implementing the VSP has hampered Permitting progress meeting its performance metrics to process 90 percent of permits within two years
- Sufficient review of CEQA document submitted by other agencies is needed to determine environmental impacts from hazardous substances

Questions and Answers

- **Zoom Audio:** To use Zoom audio, use the "raise hand" feature and you will be invited to unmute audio when it's your turn
- **Text Only:** To have your question read by the facilitator, please use the Q&A feature.