

Final Report

Department of Toxic Substances Control

Public Participation Process Review and Analysis

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CPS helps its clients across a range of issues including classification and pay, organizational reviews, program review, workforce and succession planning, testing, EEO and related investigations, and policy development.

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Executive Summary

The Department of Toxic Substances Control (DTSC) entered into a contract with CPS HR Consulting (CPS HR) on Nov. 1, 2013 to identify and map the principal work processes of the Public Participation Branch including its primary project-related processes. This has been done to evaluate whether standard process exists, and to identify the areas and tasks with the greatest potential for improvement. This project was also asked to identify key issues in program operations, and make recommendations for its future improvement.

The purpose of the Public Participation Branch is to ensure that the public is informed of DTSC actions early in the decision making process, that their issues and concerns are heard, and that their comments are considered prior to final decisions by DTSC staff and management. This review evaluated the Branch in the following ways:

- If it meets the legal mandated requirements of the law.
- If carries out its defined work processes in a deliberate and effective manner.
- If the public and other stakeholders are satisfied with its performance in meeting its stated objectives.
- If the Department is satisfied with its performance in meeting stated objectives.

This review has looked at each of these evaluative standards, and finds that the Branch is largely effective and successful in meeting its objectives, even though there are a significant number of process steps that are not standardized, and a number of improvement opportunities exist.

Those interviewed generally agreed that the public participation branch does a good job in its public outreach - even though it sometimes comes late in the process. It is also generally agreed it does a good job in holding public meetings and hearings so that views are heard. Generally the public has the information needed to allow them to comment and participate.

The largest perceived deficiency is in making sure that public comments are actually heard and considered. In doing so there has been a mixed result. While all regulatory requirements for public participation are often met, there is sometimes a break in the perceived linkage between public hearing discussion and its ultimate decision-making, that leaves participants feeling that they had no impact on the proposed action.

This study looked at the primary processes of the Branch and has identified eight opportunities for improvement that are presented in Chapter 5, beginning at page 21. Those opportunities follow:

Recommendation 1 - Redesign the Request for Mailout Form. The form initiating mailing of public notice should be re-designed so that it is specific to notice of Public Hearings, and the new form should require specific designation of the mailing lists to use by the requesting PPS and Public Participation Branch Supervisor. Having the PPS and their supervisor affirm the lists to use will ensure focus on requirements, and responsibility for that assignment. To complete the quality cycle, the assigned

Support Services Supervisor should be required to sign off on successful completion of the task, and the date of last update of the mandatory lists used.

Recommendation 2 – Establish Uniform Use of Initial Project Meetings. It is recommended that the Public Participation Branch require an initial project meeting, and a follow-up on each Clean Up or Permit Application, to complete a community assessment leading to community profiles, public participation plans, and communications strategies. These are indicated at Steps #2 and #7 of the Clean Up Process Map. While PM's maintain that initial project meetings are not always necessary - because of what they believe to be continuing informal communications – both PPS and PM's acknowledge such meetings are a "best practice" and avoid misunderstandings and errors. In addition, PM's interviewed as part of this project acknowledged that in the crush of other priorities, that they sometimes do not provide enough advance notice of upcoming projects. It is recommended that EnviroStor be modified to provide data fields for these meetings, and that the meeting agenda and a summary of the findings be filed in the system.

Recommendation 3 – Develop Formal Structure in Assignment and Acceptance. A single recommendation of what will work best within the Department is not offered. However, the system adopted must include a request and acceptance that is affirmed with knowledge of the timeline, and with knowledge of the technical project background. The system adopted should provide for entry in EnviroStor only after the request and acceptance¹.

Recommendation 4 – Develop Standard Best Practice Guidance Regarding Development of Initial Mailing Lists. While all aspects of mailing list development cannot be prescribed, guidelines and considerations that represent known best practice can be documented. The current Public Participation Guide does offer some guidance under Section D, however it is not complete and is in need of update. Uniform use of an updated guidance document will have a positive impact on the quality and effect of initial mailing lists, and will eliminate one source of potential conflict between the PM and the PPS. This document should be reviewed and updated annually at an all-staff training meeting.

Recommendation 5 – Develop and Standardize Best Practice Regarding Community Surveys. The Public Participation Branch should assemble and standardize several templates for its future community surveys, based on the shared experience of its current PPS. Guidance on analysis of results including a determination of sufficient response, and determination of the level of community interest, should also be documented. Finally, known best practices should be documented and shared. This should be reviewed and updated annually at an all-staff training meeting.

Recommendation 6 – Develop and Standardize Best Practice Regarding Language Requirements. Following the logic of the previous recommendations, the Public Participation Branch should assemble and standardize its procedures and guidelines for language requirement.

¹ Department reviewers noted that there is currently an appropriate field for assignments in EnviroStor. However, the roundtable conducted with PPS during this project indicated that informal communications between the Project Manager and the PPS is often substituted for a formal assignment and acceptance. Informal communication of assignments defeats the purpose of a structured request and acceptance.

Recommendation 7 – Develop Standardized Communications of Decision-Making Considerations that Are Elevated to Higher Management. While potentially tricky, this kind of a communication protocol is achievable and has significant potential benefit. It depends on a decision of upper management to include the responsible PPS in decision-making meetings, or as an alternative, in periodic decision updates with key management personnel. Such a standardized communication policy must be in a written document, and any representations it creates must be honored. In the interests of time these could be scheduled by phone, and at the request of the PPS and their supervisor. While it is not reasonable to assume that this or any future Director would agree to provide candid information to the PPS, the Director of Communications could provide the authority of that office to ensure candid communications. This is justified primarily on the basis of keeping external parties informed, and to provide the greatest possibility for their comments to be considered prior to final decisions. It could also be used to better support reasonable deference to public views in decision-making, which was one of the issues raised by the Environmental Justice stakeholders interviewed as part of this project. Alternately, where external concerns cannot be accommodated, such enhanced communications will give PPS the most credible and immediate ability to explain what was done and why.

Recommendation 8 – Establish Quarterly Best Practice and Training Forums - Several years ago PPS staff used to gather quarterly to discuss best practices, and that was eliminated in budget cutbacks. It would be good to restore that now.

1) Purpose, Organization, and Activity

Purpose of the Review

This report provides a review of the principal business processes of the Public Participation and Community Relations Branch, which will be referred to as the public participation process of the Department of Toxic Substances Control (DTSC). It provides a statewide review and evaluation of existing program operations, including documents, guidance, statutory and regulatory mandates. Its purpose is to identify an effective process that meets regulatory mandates, resource constraints, and effectively addresses the need for public involvement. It documents and considers the views of program stakeholders and staff members who provided perspectives and recommendations on program goals, strategies, and operations. This report identifies key issues in program operations, and makes recommendations for their future improvement.

Organization and Purpose of the Public Participation Branch

The Public Participation and Community Relations Branch is housed within the Office of Communications of the Department of Toxic Substances Control. This Office also includes two other units, Media Relations and Public Outreach and Communications. The Public Participation Branch is under the direct management of one Staff Services Manager II position who reports to the Deputy Director of the Office of Communications. The manager directs the work of three Public Participation Specialist Supervisor positions, Public Participation Specialists and support staff. Public Participation staff work in two northern California locations (Sacramento and Berkeley offices) and two southern California locations (Chatsworth and Cypress offices). Currently 20.8 FTE are budgeted within the public participation team.

Staff holding the Public Participation Specialists classification make up the predominant work force (14 positions) in the unit. Public Participation Specialists are a single level classification established to collect and disperse information pertaining to the detection, monitoring, enforcement, surveillance, and assessment of toxic or hazardous substance with respect to human health and the environment. Incumbents in the classification serve as staff –level liaisons between the Department and the various community stakeholders with the charter to ensure appropriate public participation for those communities in communication and decision-making.

The Branch is considered primarily responsible for carrying out the mandate of California Health and Safety Code Section 25103: “The Legislature has found that access by the people of this state to public records is a fundamental and necessary right. The Legislature finds that it is necessary to further the public's right of access to public records pertaining to hazardous waste management, information, and cleanup, to assure the fullest opportunity for public participation in permitting and other decisions in order to protect public health and the environment.”

Consistent with that mandate, it is the mission of the Public Participation Program, “to ensure that the public is informed and involved early; that their issues and concerns are heard; and that their comments are considered prior to final decisions by DTSC staff and management.”

A further Branch values statement says: “We recognize that all members of the public have stake in our decisions, and they should have the opportunity and are encouraged to participate in developing solutions to site clean-up and facility corrective action, determining the adequacy of permitting proposals, and encouraging the reduction of hazardous waste generation. We actively promote the tenets of public participation within DTSC; we advise technical staff; and we provide the community’s perspective during the managerial decision-making process.

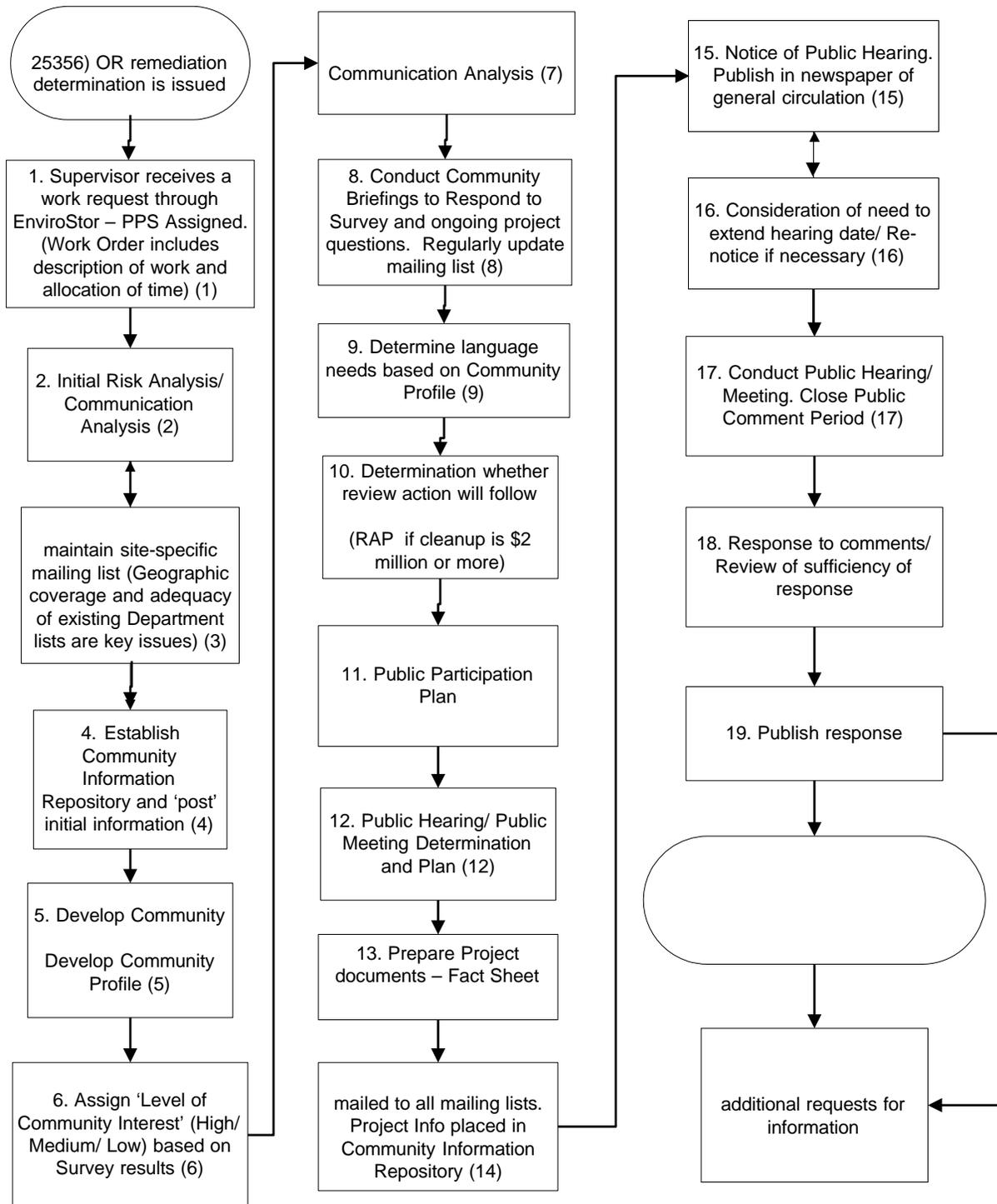
The work of the Public Participation Specialists then is to support its mission and values as previously noted.

Work Conducted by the Public Participation Branch

Work performed by the Public Participation Specialists (PPS) is generally described in its Public Participation Manual, last updated in 2001². A summary of the work described in that manual is provided in Appendix A under the title, Public Participation Specialist Process Summaries, and was used to understand and validate the primary types of work performed in that unit. Generally speaking, Public Participation Specialists provide input for departmental decision-making with regard to two primary kinds of activities, including several types of site mitigation (or “clean-up”) processes, and several types of permitting processes. The work of the Public Participation Branch is focused on the public meeting process, the Community Notice (“public notice”) process, and the fact-sheet process. While in-depth analysis of these processes is presented in Chapter 5, the primary macro-process is provided below. It should be noted that while the Site Mitigation Process is presented, the Permit Process is essentially identical, except that its trigger is the initiation of a permit renewal request, or a new permit request.

² The Department is also currently preparing an Office of External Affairs – Public Participation Guidance Document that is not yet complete but was reviewed in draft form as an additional source of information on work requirements of the Branch.

Public Participation Process – Clean Up (Site Mitigation) Action*



* The Permit Process is essentially identical, except that its trigger is the initiation of the a permit renewal request, or a new permit request.
 Note: Completion of many process steps are dependent on an implied consent to proceed, an important part of which is the acceptability of each step to the involved members of the public.

Public participation is achieved through the following types of activities that make up the work of the Specialists within the PPS unit.

- Data gathering and assessment pertaining to development of community profiles, demographics, level of community interests, determining the composition of key stakeholder groups, assembling mailing lists, conducting interviews;
- Preparation of the project-specific mailing lists and community participation plans for major projects;
- The composition of informational flyers, letters, public notices, print ads, radio ads, and facts sheets to provide information to the public as well as to publicize upcoming avenues to provide community and other stakeholder input to DTSC;
- The planning, facilitation, and outcomes documentation of various public events including community meetings and legally-required public hearings.

Specialists serve as the coordinators and facilitators in the production of the events (e.g., meetings and hearings) and documents (e.g., reports, flyers, information sheets, scripts, presentations) that promote and enable the public participation process. Major work products for PPS, in support of the various kinds of hazardous waste projects include:

- Public notices-written and broadcast
- Fact sheets
- Mailing lists
- Surveys
- Project notices
- Interview plans
- Community assessments
- Public participation plan
- Community profiles
- Print ads for events
- Scripts for radio ads publicizing events
- Signage/flyers
- Written responses to community comments
- Public meetings
- Workshops in lieu of larger public meetings
- Public hearings

Specialists work with the designated project managers, PPS management, DSTC technical staff, the permit applicant and/or the responsible party or consultant for the applicant or mitigation site, and community stakeholders. Contacts with these persons are in regard to development of Fact Sheets and other information used in public notice, community meetings and the conduct of public hearings. The specific actions and steps to be taken for any project type are explained in department regulations, and in the Public Participation Manual. For example, the following events or written products are required for all initial applicants submitting a Part B Permit Application:

- A pre-application public meeting held by the applicant
- Public notice of the pre-application public meeting by the applicant
- Broadcast media announcement of the meeting by the applicant
- Visible and accessible signage for the meeting provided by the applicant
- A meeting summary prepared by the applicant

Additional activities may be warranted if DTSC determines there is a high level of public interest, and these could include additional community meetings, development of a fact sheet, or the conduct of a public hearing.

This last point of “additional activities as warranted” illustrates a key feature of the requirements for both events and prescribed written products supporting public participation mandates. The Public Participation Manual is generally very clear in specifying which activities are required to meet legal requirements; however, the manual regularly asserts the standard that other factors (frequently levels of heightened community interest) will warrant the consideration of additional outreach, communication or feedback gathering activities. This aspect of the work of the Specialists is especially challenging in that it cannot necessarily be predicted at the initiation of a project and will, through the addition of new activities, ultimately affect project timelines.

2) Public Participation Staff Interviews

This chapter presents the views of a broad cross-section of Public Participation Specialists (PPS) regarding their business process, and barriers to efficient and effective work. It was prepared based on telephone interviews conducted in December, 2013 with seven PPS serving in both northern and southern California work sites. This input was amplified at a roundtable meeting with five Southern California Public Policy Specialists (PPS) on Feb. 19 to review process flowcharts and identify primary sources of un-clarity, delay and frustration, and most likely root causes. These comments have been used to document the conclusions reached in the Chapter 5 regarding the business process. A consolidation of their comments follows:

PPS Role: Above all else, PPS believe it is their job to maintain transparency and trust. This is done by making sure that members of the public cannot make a plausible argument that they were not informed, or that there were important facts that were not presented publicly, and on which they could not comment, and obtain a response. This responsibility supports everything they do.

Initial assignments: Even though assignments are supposed to be made through work requests entered in EnviroStor, which are reviewed first by a supervisor and then assigned, PPS interviewed as a part of this project stated this often does not happen, while supervisors reviewing this report stated that it does. PPS stated that PM's often ask PPS to take an assignment without any further analysis, and without supervisor approval. It is then incumbent that the PPS go to the PM to find out the details of what is needed, and the timelines for action. Without that information it is tough for PPS to say whether they can meet the needs. What is needed is a work order with project details to make that decision.

A lot of work orders do not go through EnviroStor. Most of the time the PM just directly approaches the PPS to ask if they can do the work, even though they are eventually entered. The formal entry would help since an understanding of the project details are obtained in that way.

Special assignments and work requests given out directly by DTSC managers are never entered into EnviroStor. So for example, the on-going public participation work associated with Exide and the Santa Susanna projects are not in EnviroStor. Special investigations are not assigned. This represents roughly half of the work that is done by PPS.

There is a lack of knowledge among PM's (project managers) regarding what the PPS role is. The work is not something that can be rushed. The PM always expects that it is possible to work within their project timeline.

PPS work is sometimes disconnected from Department actions taken. One instance of when this happens is when Branch Managers make decisions on their own and ignore the PPS processes.

Required Mailing Lists: It was confirmed that there are three kinds of lists as noted in the macro flow chart provided in Chapter 5, including site-specific, and statewide and regional mandatory lists. There

is a significant risk in not getting all these covered as it would provide opportunity for a key stakeholder to say that “you did not inform me.” When this happens, it is a potential major project cost and delay because you have to extend the comment period. The site specific mailing list is developed by the PPS in conjunction with the PM, and the primary initial requirement is to obtain a comprehensive mailing list of persons within a one-quarter mile radius. It is also recognized that the list must include elected officials, any area environmental activists and organizations, officials of local agencies and “sister” agencies, community advisory groups, and highly active community members. A specific procedure for expansion of this list does not exist, but some of the considerations include the density of the surrounding population area, the impact area of the facility, and any identified key community facilities (called “sensitive receptors”) that are nearby. The site specific list is kept by the assigned PPS, with names added or deleted upon request during the review process. PPS stated that updates and changes to the project specific list should be saved in a file that shows the date of the last change or update. In that way if another PPS has to pick up the project they can always find the most recent list. The mandatory lists are kept by support services staff, in a central location.

Community Survey: One PPS said that the community survey has been unchanged for the past 15 years. Another said she routinely updates and tailors the survey to specific community interests. The purpose of the survey is to ascertain community interest, concern and knowledge. There is no minimum response rate but often 3-4% is typical. Traditionally the community survey is printed and mailed out. One PPS puts a link to an electronic (Survey Monkey) survey in the introduction letter, and has had a significant use of that. The Department does not have an option for an all-electronic initial survey. Responses from the survey provide important information on how many area residents have high interest, medium interest or low interest. They stated that high interest is expressed in a desire to attend meetings, medium interest by a willingness to read fact sheets, and low interest as being concerned only with high impact activities such as road closures.

Development of the Community Assessment: One of the first things needed is to determine the language requirements, but there are no standard guidelines on how to do so. In discussion among the five PPS present, there were no uniform rules they could cite. One generally accepted suggestion was to look at the ethnic make-up of the target population, and where the population is 10-20% Hispanic to get Spanish translation. There was no consensus about other languages, and the typical practice is to ask community stakeholder representatives about the need for translations.

Fact Sheets: PPS observed that project Fact Sheets are often problematic, and a major use of time. Each can be a minimum of 10 hours up to a maximum of 60 hours. A major variable is how many people at higher levels want to review and change them, or if outside consultants do. PPS think that four pages is too long and the resulting product is sometimes not highly readable because they are written at a 12th grade level instead of in plain language.

Public Participation Plan: These can also be a major commitment of time, and perhaps the largest single task time-wise. They may take between 60 and 100 hours over a one year period. This is a comprehensive report and action plan that has to incorporate the history of the clean-up, including site history and next steps. PPS said that a standardized and updated public participation plan in highly active areas for DTSC actions might save a lot of time.

Audience and Key Message Analysis: PPS said that the DTSC internal team should discuss the audience in each community, based on their concerns and interests, and the “key message” based on the nature of the proposed action. They felt that development of the audience and key message is important but often overlooked, which cause imprecision in the Public Participation Planning.

Project Hours: It was agreed that PM’s tend to low-ball required PPS hours, although some projects seem to have no-ceiling. PM’s agreed they usually just charge the extra hours and there are no repercussions from doing so. There seemed to be recognition that you could ask adjustment of hours or extend timelines. PPS said there is always pressure to short cut activities, but they do not.

Project Risk Management: The primary project risk identified was missing a key stakeholder on a required notification. Others were:

- Key stakeholder can say they were not informed.
- Community members can credibly maintain that they did not have easy access (hours and location) to the public information depository.
- The fact sheet did not reveal all important and relevant information, it was misleading, or they did not understand it.

Initial Risk Analysis/ Initial Communications Analysis: PPS stated that their ability to bring about their risk management role is first carried out in an initial risk assessment, based on an initial community analysis. This is best supported by an early discussion between the PPS and the PM, and a review of available project and community information – typically called a scoping meeting. Such a meeting does not always occur, but should. The routine practice of such a meeting is recommended, and is included in the macro-process analysis. This assessment step is to be finalized prior to completion of the public participation plan. This kind of thorough planning will prevent any risk from lack of adequate investigation, which can cause major delay and loss of credibility if it comes up during a public hearing. So for example, if plumes of contaminated water exist in a community even if not caused by the proposed project, they should be referenced as part of the project context.

Primary Project Decision Making Responsibility: There is occasionally conflict between the motives and priorities of the PM versus those of the PPS, and currently there is no formal means of resolving those conflicts. The PM is often motivated to move forward quickly and under tight budget constraints. The PPS is motivated to push for fuller stakeholder contact, release of more information, translations, or discussion of sensitive information. This can cause differences of opinion about the need for the size of the initial project list, the inclusion of some survey questions, information provided in fact sheets, translations, and community meetings. PPS observed that there is no formal policy regarding the resolution of such conflicts, and some felt they should defer to the PM. Their relevant question is whether their positions are subordinate to PM’s or whether they are considered peers.

Orientation/initial training: Training and orientation process for the new public participation specialists have been and continue to be very experiential or “on-the-job training” oriented as opposed to an extended period of purely classroom training exposure to work content. While a couple of the

specialists interviewed did come to DTSC with prior related PPS experience in other state or federal environmental entities, most specialists had not worked in a public participation unit though several had experience working with community-based organizations and nonprofits. Predominant and recurring features of initial training and orientation to DTSC PPS included:

- Immediate exposure to the Public Participation Manual and related expressions of participation standards;
- Attachment to PPS project teams with one or more PPS staff to directly witness the process involved with the completion of project events and the construction of written word products;
- Shadowing other PPS staff in meetings, interactions and in public events/meetings;
- Frequent one-on-one meetings with the PPS supervisor to afford an opportunity for the supervisor to assess the staff members absorption of training and to allow opportunities for the PPS to directly address training issues and questions to the supervisor; and
- Submission of all new PPS work products to the supervisor for direct feedback and subsequent revision.

Recommendation: Several years ago PPS staff used to gather quarterly to discuss best practices, and that was eliminated in budget cutbacks. It would be good to restore that now.

Barrier removal: It was generally acknowledged that earlier and more productive communication between the PMs and the PPS staff represents one of the single largest means of barrier removal. Now PPS must juggle work requests in multiple projects, and get minimal notice from the PMs regarding upcoming work. This promotes a more hurried completion with a higher potential for error or incompleteness. All of the PPS work would be improved through:

- Updating of the Public Participation Manual to make it a more useful guideline, especially in updating of aids to correct work completion like check-lists
- Determine if the current staffing levels (both specialists and supervisors) are adequate to meet the current workload needs
- More shared consistency in approaches to work products and events between the varied work locations of PPS staff—more shared agreement on better/best practices

3) Stakeholder Interviews

This section presents comments presented by two kinds of stakeholders in the public participation process, as identified by Department representatives. They include external stakeholders from the environmental justice community, largely speaking to the concerns of the general public in the area of proposed projects. They also include the comments of four Department Project Managers, who are charged with completion of projects according to prescribed time requirements and budgets.

Environmental Justice Stakeholders

Two interviews were conducted as a part of this section, including interviews with Bill Magavern, Coalition for Clean Air, Sacramento, and Ingrid Brostrom, Center on Race, Poverty and the Environment, San Francisco. Both interviews were conducted on Feb. 14, 2014. Relevant comments of other individuals identified as environmental justice advocates and conducted as a part of the earlier Permit Program Review³, were also consulted. Notable among these was an interview with Liza Tucker, of Consumer Watchdog, Santa Monica, conducted on June 5, 2013. A summary of the comments follow:

It was agreed that the Public Participation Branch has three principal roles in DTSC actions. It needs to:

1. Ensure the public is informed and involved early;
2. Ensure that their issues and concerns are heard, and;
3. Ensure that their comments are considered prior to final decisions by DTSC staff and management.

Those interviewed generally agreed that the public participation branch does a good job in giving public notice - even though it sometimes comes late in the process - and in holding public meetings and hearings so that views are heard. Generally the public has the information needed so they can comment and participate.

The largest perceived deficiency is in making sure that public comments are actually heard and considered. In doing so there has been a mixed result. While all regulatory requirements for public participation is often met, there is sometimes a break in the linkage between public hearing discussion and its ultimate decision-making, that leaves participants feeling betrayed or manipulated.

Magavern gave an example of public involvement as a part of safer consumer product development. He noted that there was pretty exhaustive public process including workshops and public meetings. Problems developed at the decision-making phase, and there were doubts that comments were considered. That was the result of decisions moving up in the political chain of command. When decisions get pushed up above the working staff there is often a loss of trust in the final decision.

³ CPS HR completed a review of the DTSC Permit Process on Oct. 2, 2013. That review included nine interviews with members of the environmental justice community.

Those interviewed felt it is a violation of the process when what has been presented to people to comment on is suddenly reversed by the political leadership, and the revised action is re-submitted for comment but only with a very short review period, and with only written comments allowed. It feels pro-forma and manipulated – almost like bait and switch. There is great frustration when people participate in a long process where they thought they knew what was under consideration.

Brostrom said that meaningful public participation is not just a check mark or filling in a box. People are frustrated when they are asked to attend a number of meetings, and then feel they have no impact.

A well informed public should help make a better decision. It should obtain better implementation. The public has a unique role in being able to provide an appropriate context for these difficult decisions.

None of those interviewed felt there is a reasonable deference to public views in decision-making. As evidence they stated that there is rarely a modification or mitigation regarding proposed projects. They stated that modification or mitigation is more likely when there is media attention.

Another problem specific to permitting is that there is only notice and an opportunity to comment “at the last moment.” It would help if the public was invited in before the agency had made up its mind on the recommended action. It’s hard for the agency to change course at the last minute. It was noted that DTSC has discretion to reach out to the public and obtain comment at the time that a permit renewal is first initiated.

There is a bigger concern with mitigation (clean-up) actions, because the statutory language is not as clear, and there are really big deficiencies in how public comment is obtained. An example was an abandoned pesticide manufacturing facility in Shafter, where children had cut the fence and were painting graffiti on the dirt walls of former pesticide holding ponds. This was in the time leading up to the development of a remedial action plan for the facility, and once that process started there was no further communication with the community about this problem site. “We could never get them (DTSC) to come back to the community” during the clean-up period. There should be standards of how you keep a community informed and involved in this kind of situation. The Community Action Planning process requires one hearing, but then that’s it.

Magavern agreed and cited the example of the Santa Suzanna Field Lab, where a working group had many meetings over many years, only to see the Department withdraw its support.

It was noted that Tanner Act is not helpful to communities trying to make a decision about the appropriateness of actions, because it shifts the focus of discussion to agreeing to some benefit.

Opportunities to improve the current public hearing process: These include translations and accessibility of the public hearings. Brostrom said that public hearings need to be at times and places that are most convenient to the public, and that 5pm is not late enough. “It takes time to get home from work, and out to a hearing.” Magavern said there is a need to “make sure those opportunities are accessible and well noticed, and held at times and places that people can attend.”

Translation is a second primary issue. DTSC is just starting to realize that translation is a big deal. It needs to be recognized that simultaneous translation should be the norm. Where translation in public hearings is offered, the time for the translation should not be counted against the speaker. The Department should always try to distribute material in all the languages used in the community. The public notice needs to include newspapers and media in native languages.

Brostrom did not appreciate the structure of the “Open House” meetings held in conjunction with the Kettleman Hills permit modification, and thought that having information “booths” featuring different agencies divided the relevant information into less meaningful chunks, that were hard to understand or respond to. She called it “divide and conquer” and that it did not provide the appropriate context. She said that DTSC also did a horrible job of sending out the required notices, and twice missed the statewide mandatory list. She also commented that having the permit applicant pay for and bus individuals supporting the project into hearings created an intimidating atmosphere for those opposed.

Project Managers

A group of four DTSC project managers were interviewed in an online phone conference call, held Feb. 19, 2014. Questions were directed to what is not working well in the public participation process, whether Project Manager (PM) expectations are being met, and the root causes of issues that exist. Their responses follow:

Meeting Project Timelines: This is always a concern. PM’s need to push because developers are always in a hurry. PPS would like to have more notice of upcoming demands but PM’s do not have advance notice either.

PM’s wonder if some actions could be done more quickly. They note that most PM’s write Fact Sheets, and even though they are significantly improved by PPS, they seem to take too long. They acknowledged that they go back and forth quite a few times in development and approval, and that they are “much more easily understood” afterwards. Public Participation Plans and Community Surveys also seem to take a long time. PM’s acknowledge that balance shortened time requirements with the quality of their work.

Good Quality of Work: PM’s agreed that PPS “do a very good job” and fulfill “a very tough role.” As a group that have a good attitude and are very thorough in the work they do.

Appropriate Staffing: It could be that most of the dissatisfaction with the PPS is the result of the fact that the “PPS may be spread too thin,” and have perhaps been understaffed to get all the work done timely.

Project Team and Communication: It was acknowledged that PM’s sometimes are delayed in getting PPS briefed on upcoming projects, although they do try to give the most advance notice they can. Most of the communications described were informal or person-to-person between the PM and the PPS. PM’s said they rely on PPS to get a good understanding of the technical process. It was noted that all

“Request for Lead Agency Oversight Applications” includes a VPA section that has a lot of very valuable information for understanding the technical process, and the either the PM should make that available, or the PPS should dig it out of EnviroStor. It is a PM responsibility to tell them about changed project conditions. It is appreciated when the PPS reach out to the PM to ensure coordinated actions. It is appreciated when the PPS understands “the context of the project” – for example, “a fast paced development project.” Their work should keep in mind the DTSC objective and exit strategy.

PM and PPS relationship: PM’s believe that PPS are team members, but equals in project activity. They should support the PM. One PM stated that: “Sometimes they (PPS) think they need to run a project,” even though the PM believes it is the PM role to run the project, since the PM “... is responsible for any perceived problem or delay. There should be constant communication and collaboration. PM’s need the PPS to “touch base frequently.”

4) Describe Program Performance

The work of the Public Participation Branch is mandated in Health and Safety Code Section 25103: "... access by the people of this state to public records is a fundamental and necessary right. The Legislature finds that it is necessary to further the public's right of access to public records pertaining to hazardous waste management, information, and cleanup, to assure the fullest opportunity for public participation in permitting and other decisions in order to protect public health and the environment."

The Public Participation Branch has three principal roles in DTSC actions. It needs to:

1. Ensure the public is informed and involved early;
2. Ensure that their issues and concerns are heard, and;
3. Ensure that their comments are considered prior to final decisions by DTSC staff and management.

PPS believe it is their job to maintain transparency and trust. This is done by exceeding legal requirements to make sure that members of the public cannot argue that they were not informed, or that there were important facts that were not presented publicly, and on which they could not comment, and obtain a response.

The Public Participation Branch supports the Department in two primary types of work, including the site mitigation and clean-up process and the public hearing process. It also provides required public support to the DTSC Enforcement and Emergency Response Programs, and to the Office of Pollution Prevention and Green Technology in required two-way communications with the Department. The Branch provides its support through conduct of the following types of activities:

- Development of project fact sheets and other project information to be made available to the public;
- Data gathering, community assessment and community surveys to understand community interests, needs, and concerns regarding Department projects and activities;
- Preparation of the project-specific mailing lists and community participation plans for public engagement;
- Providing any required public notice processes, including composition of informational flyers, letters, public notices, print ads, radio ads, and facts sheets;
- The planning, facilitation, and conduct of various public events including community meetings and legally-required public hearings;
- The documentation of outcomes regarding public hearing processes, and communication of Department decisions to the affected communities.

As such, performance of the Public Participation Branch can be evaluated in the following ways: First, if it meets the legal mandated requirements of the law. Second, if carries out its defined work processes in a deliberate and effective manner. Third, if the public and other stakeholders are satisfied with its performance in meeting its stated objectives. Fourth, if the Department is satisfied with its performance in meeting stated objectives. This review has looked at each of these evaluative

standards, and finds that the Branch is largely effective and successful in meeting its objectives, even though a number of improvement opportunities exist.

There have been very few noted instances where the mandated requirements of law or regulations have not been met by the Branch, and the most significant recent experience was noted during stakeholder interviews with environmental justice representatives as follows: During the Kettleman Hills permit modification DTSC “did a horrible job of sending out the required notices, and twice missed the statewide mandatory list⁴.” This root cause of this process failure, and a proposed solution, is described in the next chapter.

Stakeholder comments obtained in this study find a general satisfaction with the Branch, both in the view of the general public and the Department itself, with a couple of noted concerns on the part of the Environmental Justice Community stakeholders.

The most significant concern is the observation that there is a breakdown when what has been presented to people to comment on through public participation program is suddenly reversed by higher level management or political leadership, and the discussion of the revised action is either rushed or abbreviated. A second expressed concern is the failure of initial project proposal to be modified or mitigated during the period of its consideration, which implies that concerns were not heard or responded to. A third concern is that the public is not notified of potential department actions prior to development of a draft decision. While significant, addressing these concerns is beyond the span of control of the Public Participation Branch.

This study finds that the maintenance of defined work processes and their performance in a deliberate and effective manner, the second evaluative criteria, is the greatest program deficiency, and that is the focus of the next chapter.

The PPS interviewed as a part of this study expressed concerns about the following three tasks, because of the significant amount of time that each one takes. They are:

1) Public Participation Plan: These require a major commitment of time, and are believed to be the task that requires the greatest commitment of time. It was estimated that they take between 60-100 hours and are completed over a one year period.

2) Fact Sheets: PPS observed that project Fact Sheets are often problematic, and a major use of time. Each can be a minimum of 10 hours up to a maximum of 60 hours.

3) Audience and Key Message Analysis: PPS said that the DTSC internal team should discuss the audience in each community, based on their concerns and interests, and the “key message” based on the nature of the proposed action. This is often overlooked, which cause imprecision in the Public Participation Planning.

⁴ DTSC Public Participation supervisors assert there was only one instance of failure to mail to the State-wide mandatory mailing list.

As a further means of evaluating these observations, and to represent the overall work of the Branch, this study reviewed the work orders assigned to the Public Participation Specialists between 2011 and the present, using departmentally provided records pulled from Envirostor. This analysis focuses on the number and types of request received overall and within each year in the time frame from 2011 to 2014, noting that there were very limited records for 2014 (only through Jan. 22) at the time of this study. It is also noted that the Envirostor record does not reflect all the work of the Branch, and that PPS maintain that only direct assignments from Project Managers are captured in this manner. Special projects that are assigned by Department managers are not tracked in Envirostor. Regardless, this analysis was undertaken to express the nature of work assigned in this manner, its time requirement, and whether it is completed timely. Following is the list of the work order requests made during the period, and by type of activity.

Number of PPS Requests by Year and Key Activity

	2011	2012	2013	2014	TOTAL OVERALL
5 Year Review Reports	10	11	2	0	23
Community Profile	24	17	15	0	56
Emergency Permit	3	3	16	0	22
Fact Sheets	34	28	17	0	79
Field Work	6	6	1	0	13
Mod. Class 1 – No Prior Approval	2	8	4	1	15
Mod. Class 1 – Prior Approval	4	5	2	0	11
Mod. Class 2 – 1 or less units	1	0	1	0	2
Mod. Class 2 – 2 or more units	0	1	1	0	2
Mod. Class 3 – 1 or less units	1	0	0	0	1
Mod. Class 3 – 2 or more units	0	1	0	0	1
New Operating Permit	9	4	0	0	13
New Post-Closure Permit	1	1	0	0	2
PC Mod. Class 1 – No Prior Approv.	0	1	0	0	1
PC Renewal – No Changes	0	0	2	0	2
Proposed Plan	12	13	9	0	40
Public Notice	50	41	30	2	123
Public Participation Plan/ Community Relations	9	21	10	0	34
Remedial Action Plan	5	5	3	0	13
Removal Action Work plan	23	15	5	0	43
Renewal – No Changes	2	6	1	0	9
Renewal – With Changes	8	2	0	0	10
Site Characterization Work Plan	5	1	1	0	7
Work Notice	27	49	32	0	108
OTHER (includes all other activities not listed above)	31	31	16	1	79
TOTAL	267	270	168	4	709

The scope of work of the present review did not include workload analysis, so the above task list was used only to test the observation that Public Participation Plans and Fact Sheets are among the largest work requirements of the Branch, and it did confirm this assertion. The most common activities by number were:

- Public Notice - 123
- Work Notice - 108
- Fact Sheets - 79
- Community Profile – 56
- Removal Action Plan – 43
- Proposed Plan – 40

As noted earlier, the best means of determining the performance of the Public Participation Branch include the following:

1. If it is meeting the legally mandated requirements of the law.
2. If carries out its defined work processes in a deliberate and effective manner.
3. If the public and other stakeholders are satisfied with its performance in meeting its stated objectives.
4. If the Department is satisfied with its performance in meeting stated objectives.

Primary objective measures that are possible regarding Branch Performance at present seem to be limited to the number and type of work orders, and the estimated and actual hours and days required to complete those actions. While these measures may be useful indicators, the best objective measures would be those that reflect work re-done, or caught in approval loops. So for example, interviews with PPS identified a number of process steps with the greatest amount of “delay, un-clarity, and frustration.” Those are discussed in the next chapter, and are linked to specific processes and steps. It is believed that the greatest opportunities for improvement are in those identified areas.

5) Process Review

This section of the report has identified and mapped the principal work processes within the Public Participation Branch including its primary project-related processes. This has been done to evaluate whether standard process exists, and to identify the areas and tasks with the greatest potential for improvement. This project was also asked to identify key issues in program operations, and make recommendations for its future improvement.

As noted in Chapter 2 of this report, the work of the Public Participation Specialists (PPS) is generally described in its [Public Participation Manual](#). A summary of the work described in that manual (see Appendix A) was used to understand and validate the primary types of work performed in that unit. The primary work processes were further defined in subsequent meetings with PPS and Branch management, and the following list of processes was identified:

- Clean Up/ Site Mitigation
- Permitting – Issuance or renewal of a full permit
- Public Hearing Process
- Public Notice Process
- Fact Sheet Process
- Mailing List Development and Use
- Radio Advertisement Process

The two most comprehensive processes carried out by the PPS are the Clean Up/ Site Mitigation process and the Permitting process, and in performing the process mapping it was noted that aside from one process step, the two processes are identical in almost every other aspect⁵. For this reason only the Clean-Up/ Site Mitigation process map is included in this Chapter. (See page 27).

It was also observed that while the remainder of the processes listed are sometimes done independently, they are most often performed within the context of one of the larger processes. As a result, the “smaller” process maps were used to obtain additional details on the issues associated with Public Participation Branch work. The Public Hearing Process, Public Notice Process, Face Sheet Process, and Mailing List Development and Use Process flowcharts are included at pages 29-32.

It is noted much of the supporting information for analysis of process steps is provided in the comments recorded in Chapter 2, “Public Participation Staff Interviews”. Much of the additional process analysis was provided in specific review comments provided by Public Participation Branch supervisors during the course of this project. Follow is a summary of the primary process issues that were identified, along with the analysis and root cause identification. A recommendation for resolving the issue is also provided.

⁵ The only exception is issuance of a new permit, which is extremely rare.

Primary Process Issues, Analysis and Recommendations

1. Failure to Provide Adequate Notice of Project Activity

The primary process risk identified was the failure to provide public notice to all required parties in required mailings. This takes place at Step #14 of the Clean Up – Site Mitigation Process. Most recently, the Department received significant adverse publicity because of the failure to send required notices to all individuals on the Mandatory Statewide List.

This process step reflects a vulnerability in that it takes place at a handoff between the Public Participation Branch and the Support Services (Administrative) Branch, that executes out the mailing. The mailing is initiated by completion of a standard form, the “Reprographics/ Mailout Request for Public Participation Staff,” dated Oct. 7, 2008. Because of its significance this form is included at Appendix B of this report.

Successful completion of this activity requires that the responsible PPS provides an up-to-date project specific mailing list that they create and maintain during the public review of the project information, and that the project specific list be combined with a Mandated Regional list and a Mandated Statewide list, that are maintained by Support Services. The successful combination of these lists did not occur on the recently cited failure, and even though such incidences are extremely rare, they would seem to be easily preventable.

Despite the high need for exactitude in this transaction, the form only has “Additional Special Instructions”, in which the notation of the need to mail to the Mandatory lists should be included.

Recommendation 1 - Redesign the Request for Mailout Form. The form initiating mailing of public notice should be re-designed so that it is specific to notice of Public Hearings, and the new form should require specific designation of the mailing lists to use by the requesting PPS and Public Participation Branch Supervisor. Having the PPS and their supervisor affirm the lists to use will ensure focus on requirements, and responsibility for that assignment. To complete the quality cycle, the assigned Support Services Supervisor should be required to sign off on successful completion of the task, and the date of last update of the mandatory lists used.

2. Determined Need to Hold a Second Public Meeting or Hearing

The decision to hold a second public meeting or hearing, and to again provide notice and repeat this activity, is the principal source of organizational “re-work”, and thus a primary area for improvement. This decision is generally based on one of several determinations. First is when a key stakeholder can say they were not informed. Second is when Community members can credibly maintain that they did not have easy access (hours and location) to the public information depository. Third is the plausible assertion that the fact sheet developed for the project did not reveal all important and relevant information, that it was misleading, or that the public somehow did not understand it.

While no one, obvious root cause was determined as a part of this study, it is believed that undue hurry in the public participation process is the primary factor. When the PPS role is hurried, it is more likely that the initial project mailing list will have omissions, or that the Community Profile will be hurried.

This kind of hurry can lead to several related vulnerabilities, including key stakeholders being omitted from initial discussions, a failure to appreciate unique factors of communities, or a failure to adequately assess community language needs, among others. These vulnerabilities are exacerbated by the lack of best practice protocols for specific tasks conducted by PPS – such as establishment of the project specific mailing list. (Discussion of the lack of best practice protocols is presented below).

Recommendation 2 – Establish Uniform Use of Initial Project “Scoping” Meetings. It is recommended that the Public Participation Branch require an initial project meeting, and a follow-up on each Clean Up or Permit Application, to complete a Community Risk Analysis and Communication Plan. These are indicated at Steps #2 and #7 of the Clean-Up Process Map. While PM’s maintain that initial project meetings are not always necessary - because of what they believe to be continuing informal communications – both PPS and PM’s acknowledge such meetings are a “best practice” and avoid misunderstandings and errors. In addition, PM’s interviewed as part of this project acknowledged that in the crush of other priorities, that they sometimes do not provide enough advance notice of upcoming projects. It is recommended that EnviroStor be modified to provide date fields for these meetings, and that the meeting agenda and a summary of the findings be filed in the system.

Additional Process Issues, Analysis and Recommendations

3. Imprecision in Initial Assignments

It was noted in focus groups that even though assignments are supposed to be made through work requests entered in EnviroStor, which are reviewed first by a supervisor and then assigned, this is not the way it generally happens. Often the supervisor asks if the PPS can take on an assignment, or the PM does, without any advance information about its likely timeline, or project details. Without that information it is tough to plan and make a firm commitment. This is likely to increase the time required for assignment and the commitment to a firm project schedule, which have already been identified as vulnerabilities.

Recommendation 3 – Develop Formal Structure in Assignment and Acceptance. A single recommendation of what will work best within the Department is not offered. However, the system adopted must include a request and acceptance that is affirmed with knowledge of the timeline, and with knowledge of the technical project background. The system adopted should provide for entry in EnviroStor only after the request and acceptance.

4. No Best Practice Procedure or Guidelines for Development of Initial Mailing Lists. This review

confirmed that development of the initial project mailing list is a key to all that follows, and heavily influences the subsequent development of information regarding “level of interest” in the community, and the issues and concerns of the community expressed through the Community Assessment survey. There is a significant risk of omissions as it would provide opportunity for a key stakeholder to say that “you did not inform me.” When this happens, it is a major project cost and delay because you have to extend the comment period. The site specific mailing list is developed by the PPS in conjunction with the PM, and the primary initial requirement is to obtain a comprehensive mailing list of persons within a one-quarter mile radius. It is also recognized that the list must include elected officials, any area

environmental activists and organizations, officials of local agencies and “sister” agencies, community advisory groups, and highly active community members. However, despite the importance of this list development, there is no specific procedure for its expansion beyond the one-quarter mile radius. Some of the considerations include the density of the surrounding population area, the impact area of the facility, and any identified key community facilities (called “sensitive receptors”) that are nearby.

Recommendation 4 – Develop Standard Best Practice Guidance Regarding Development of Initial Mailing Lists. While all aspects of mailing list development cannot be prescribed, guidelines and considerations that represent known best practice can be documented. The current Public Participation Guide does offer some guidance under Section D, however it is not complete and is in need of update. Uniform use of an updated guidance document will have a positive impact on the quality and effect of initial mailing lists, and will eliminate one source of potential conflict between the PM and the PPS. This document should be reviewed and updated annually at an all-staff training meeting.

5. Need to Clarify and Standardize Best Practice Information Regarding Community Surveys.

In project interviews one PPS said that the community survey has been unchanged for the past 15 years. Another said she routinely updates and tailors the survey to specific community interests. The purpose of the survey is to ascertain community interest, concern and knowledge, so its’ most effective use is key to the end result of a successful public meeting or hearing and full public participation. In addition, the best practices of some PPS – for example to encourage greater response through an optional electronic survey – are not recognized by all.

Recommendation 5 – Develop and Standardize Best Practice Regarding Community Surveys.

The Public Participation Branch should assemble and standardize several templates for its future community surveys, based on the shared experience of its current PPS. Guidance on analysis of results including a determination of sufficient response, and determination of the level of community interest, should also be documented. Finally, known best practices should be documented and shared. This should be reviewed and updated annually at an all-staff training meeting.

6. Need to Develop Best Practice Procedure or Guidelines for Language Requirements.

Both PPS and External Stakeholders noted the importance of the determination of language requirements, but PPS stated there are no guidelines on how to do so. In discussion among the five PPS interviewed in the Southern California roundtable, there were no uniform rules they could cite. One generally accepted suggestion was to look at the ethnic make-up of the target population, and where the population is 10-20% Hispanic to get Spanish translation. There was no consensus about other languages, and the typical practice is to ask community stakeholder representatives about the need for translations.

Recommendation 6 – Develop and Standardize Best Practice Regarding Language Requirements.

Following the logic of the previous recommendations, the Public Participation Branch should assemble and standardize its procedures and guidelines for language requirement.

7. Seek Standardization of Political Involvement

PPS identified three points of significant process un-clarity, all of which share a common root-cause that is generally described in this analysis as “political involvement”. The relevant definition of “political involvement” used in this discussion is a decision-making process that is not defined and predictable. “Political” decisions as defined here are those that are heavily influenced by organizational position and perceived importance rather than by rule. There are three specific points of process un-clarity impacted by this kind of “political intervention,” and which exist at two levels: 1) Those where the intervention is primarily internal to the organizational forces within DTSC, including the Office of the Director, and; 2) Those decisions that are made in response to the perceived importance (or complaint) of external parties such as the applicant or responsible party, community advocates, elected representatives or professional representations of any of these stakeholders.

Three examples of this are seen in the “micro-process” flowcharts for Public Notice Process (Steps #7-10); Public Hearings Process (Step #4); and Fact Sheet Process (Steps #5-8). Specifically, in the Public Notice Process it was noted that the first step of approval for the Public Notice is to route it for review by Legal and Management. The second step is to determine whether the approval requires “DTSC Executive or broader stakeholder review.” The third step is to determine whether review by geologists, senior DTSC or other technical experts is required. The yes/no decision involves inputs from all parties in succession, and an input from any of these reviews can cause a re-review by previous parties. There are no defined (or perhaps definable) criteria for any of the approvals. While this kind of judgmental and interpretive decision making is common and expected in government organizations, they can cause problems in liaison with the public, and maintaining good faith with interested citizens or individuals. The problem is that this kind of complex, multi-party and serial review can be almost entirely removed from the view of the responsible PPS, because the discussions about issues and interim decisions are within the domain of upper management. Since the PPS is still responsible for the public liaison, this can raise a significant risk regarding delay and miscommunication – all of which can create a breach of faith between DTSC and the responsible party (or “applicant”) or between DTSC and the external community. Maintaining PPS involvement in and familiarity with the definition and resolution of these “political” issues would maximize their role “To ensure that the public is informed and involved early; that their issues and concerns are heard; and that their comments are considered prior to final decisions by DTSC staff and management.”

The Fact Sheet process gets caught up in “political” decision-making between steps #5-#8. Those steps introduce the possibility of review by “non-drafting parties” – including the Responsible Party. It also shares the possible elevation of the decision to DTSC executive office or broader review. Likewise, the Public Hearing Process has a possible “political” decision in the decision regarding the public hearing “presentation”, including the message and the specifics of the meeting conducted. Since the Fact Sheet process was identified as the second largest use of time, and the determination of the public hearing message was designated as the third largest use of time, improvements to either (or both) can be expected to have significant positive impact both on resource use and on Branch effectiveness.

Recommendation 7 – Develop Standardized Communications of Decision-Making Considerations that Are Elevated to Higher Management. While potentially tricky, this kind of a communication protocol is achievable and has significant potential benefit. It depends on a decision of upper management to include the responsible PPS in decision-making meetings, or as an alternative, in periodic decision updates with key management personnel. Such a standardized communication policy must be in a written document, and any representations it creates must be honored. In the interests of time these could be scheduled by phone, and at the request of the PPS and their supervisor. While it is not reasonable to assume that this or any future Director would agree to provide candid information to the PPS, the Director of Communications could provide the authority of that office to ensure candid communications. This is justified primarily on the basis of keeping external parties informed, and to provide the greatest possibility for their comments to be considered prior to final decisions. It could also be used to better support reasonable deference to public views in decision-making, which was one of the issues raised by the Environmental Justice stakeholders interviewed as part of this project.

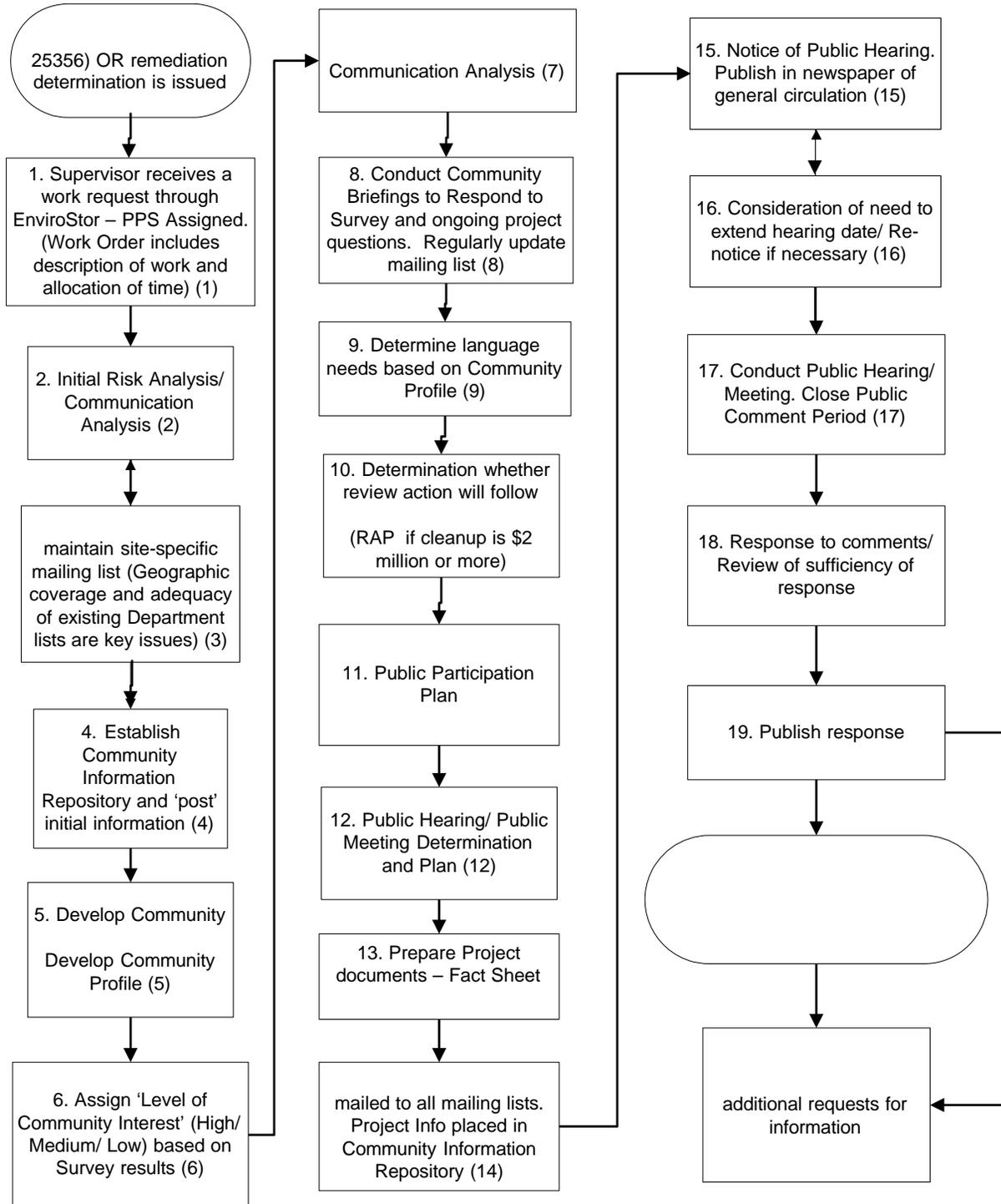
Alternately, where external concerns cannot be accommodated, such enhanced communications will give PPS the most credible and immediate ability to explain what was done and why.

8.Improvement in Initial and Continuing Training Opportunities

Training and orientation process for the new public participation specialists have been and continue to be very experiential or “on-the-job training” oriented as opposed to an extended period of purely classroom training exposure to work content. While a couple of the specialists interviewed did come to DTSC with prior related PPS experience in other state or federal environmental entities, most specialists had not worked in a public participation unit though several had experience working with community-based organizations and nonprofits. Predominant and recurring features of initial training and orientation to DTSC PPS included: 1) Immediate exposure to the Public Participation Manual and related expressions of participation standards; Attachment to PPS project teams with one or more PPS staff to directly witness the process involved with the completion of project events and the construction of written word products. The Public Participation Manual is now undergoing update and is expected to be a major improvement. However, as noted in recommendations #4-6 above, there is significant potential in simply letting PPS get together to share developed best practices and to periodically update procedures, practices, and protocols. It is possible, for example, that the PPS group could create templates and guidance documents on a voluntary basis, and on a shared drive, to continue to maintain and update future training materials.

Recommendation 8 – Establish Quarterly Best Practice and Training Forums - Several years ago PPS staff used to gather quarterly to discuss best practices, and that was eliminated in budget cutbacks. It would be good to restore that now.

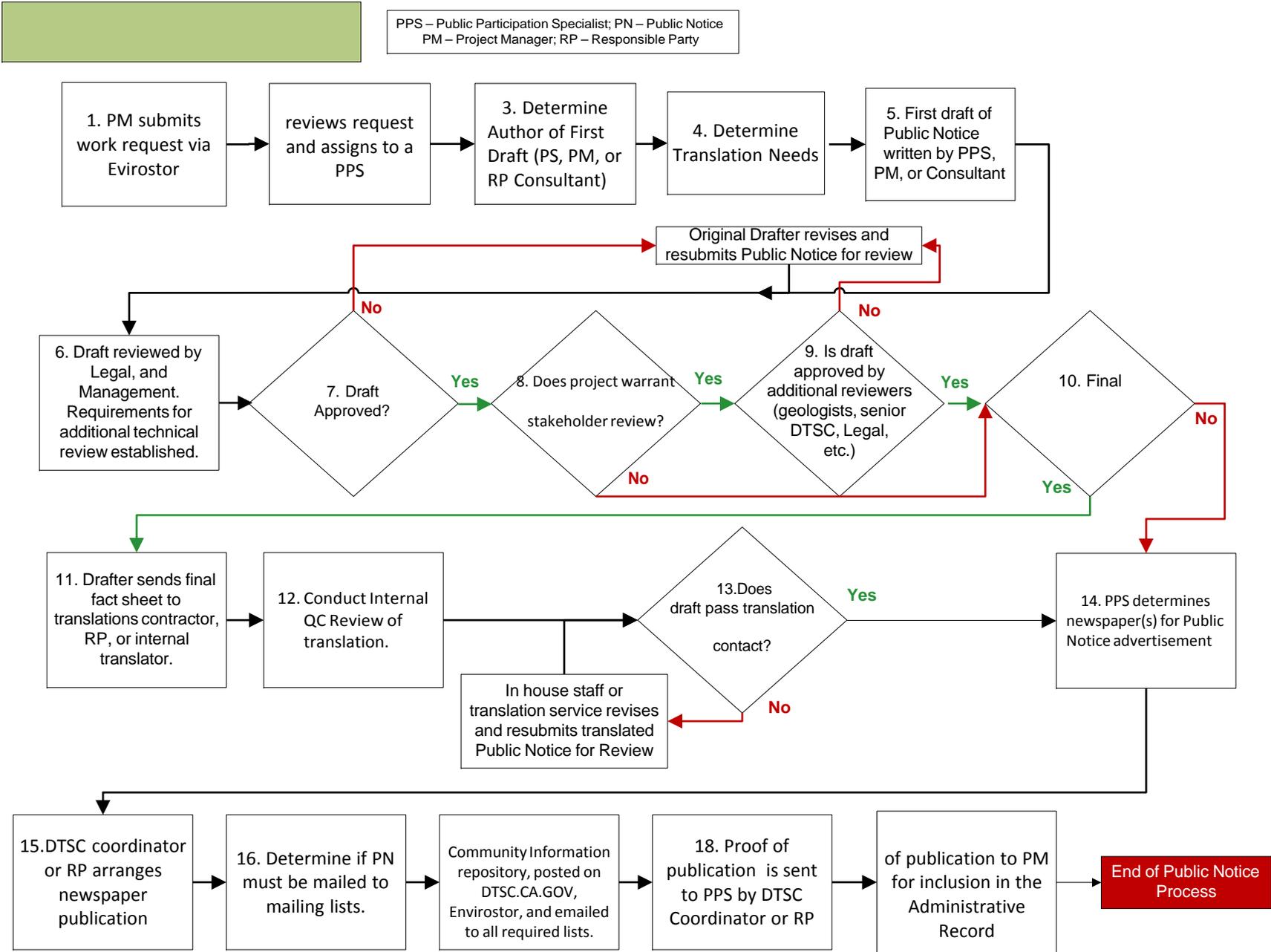
Public Participation Process – Clean Up (Site Mitigation) Action*



* The Permit Process is essentially identical, except that its trigger is the initiation of the a permit renewal request, or a new permit request.
 Note: Completion of many process steps are dependent on an implied consent to proceed, an important part of which is the acceptability of each step to the involved members of the public.

Clean-Up Action Process Flowchart footnotes:

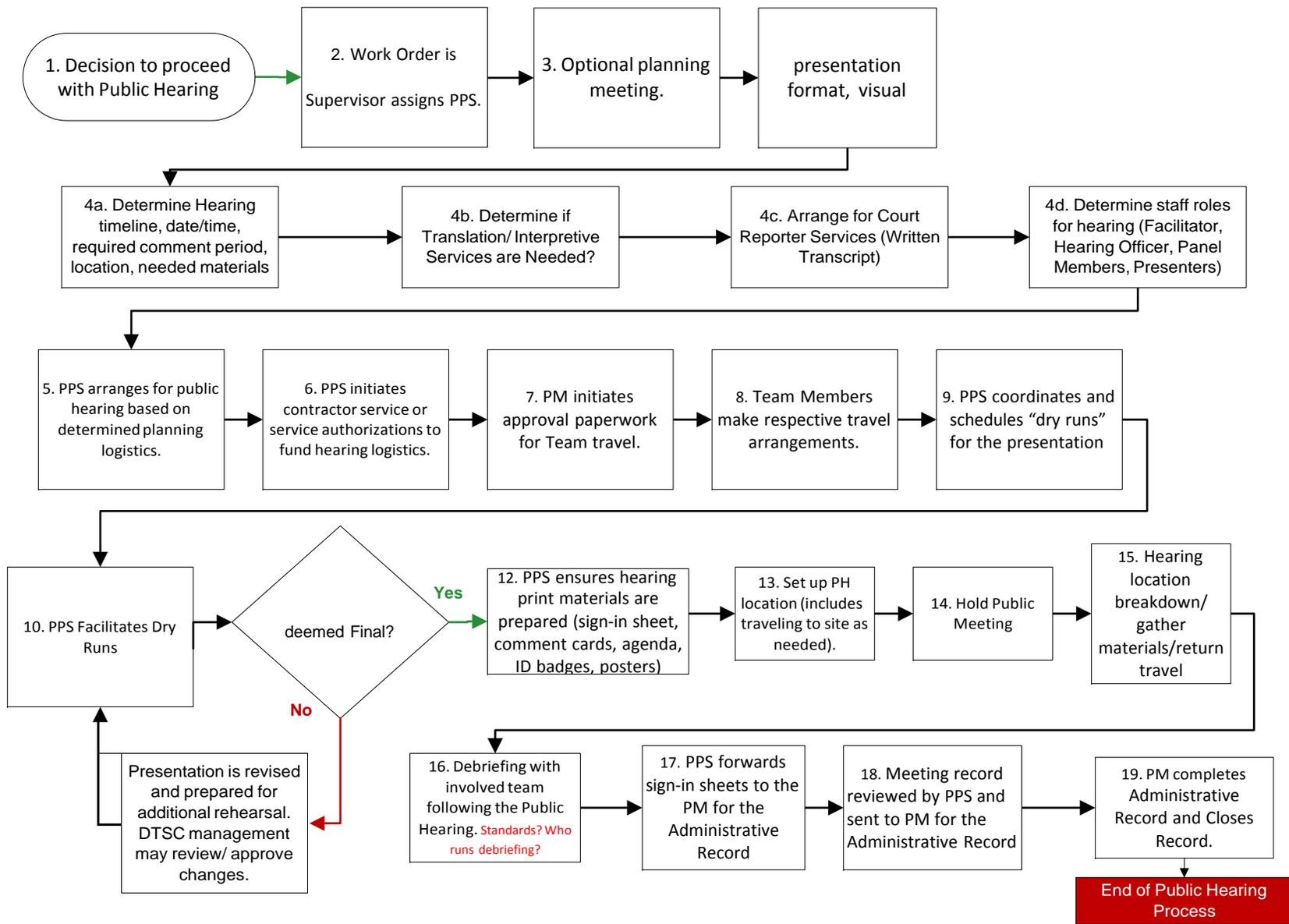
- (1) Most project specific assignments are noted in EnviroStor, although the process of initial contact and acceptance of assignments by the PPS is highly site and project specific.
- (2) Initial Risk Analysis/ Communications Analysis – Performed at an initial project meeting and community analysis attended by the PPS and the PM. This provides information to design community survey.
- (3) Project mailing will always include site-specific list, and mandatory notice lists that are statewide or regional.
- (4) Information repository includes a physical location in the affected jurisdiction (usually a library), at the Department web page, and as a scanned EnviroStor record.
- (5) The requirements for a Baseline Community Survey are defined in HSC 25358.7(b) and for a Community Profile in HSC 25356.1Hh)(1). The survey is tailored based on the Initial Risk Analysis/ Community Assessment.
- (6) The assignment of the level of community interest is a subjective judgment of the PPS, working with the PM.
- (7) These meetings are not now generally held, but are recommended. They would include the PM and PPS as a minimum.
- (8) The site-specific mailing list is updated throughout the project, by removing names when mail is returned or refused, and adding the names of those who request notice.
- (9) The determination of language needs is a subjective judgment of the PPS, working with the PM. Defined language needs
- (12) It is noted that CA Administrative Code Section 66271.10 allows “any interested person” to request a public hearing.
- (14) Three mailing lists must be combined for this notice, including the Statewide and Regional mailing lists, along with the site-specific list. The information repository includes the physical site, along with the Department web page and a scanned copy in EnviroStor.
- (15) Public Hearing can be scheduled no sooner than 30 days after the public notice. The project fact sheet typically contains information on the public hearing, including its date and location.
- (16) Based on a determination that the issues will require greater time for community response. This is a subjective judgment of the PPS, working with the PM. CAC Section 66271.13 allows for re-opening of the public comment period if it “could expedite the decision-making process.”
- (17) The close of the public comment period cannot occur before a minimum of 45 days since issuance of public notice.

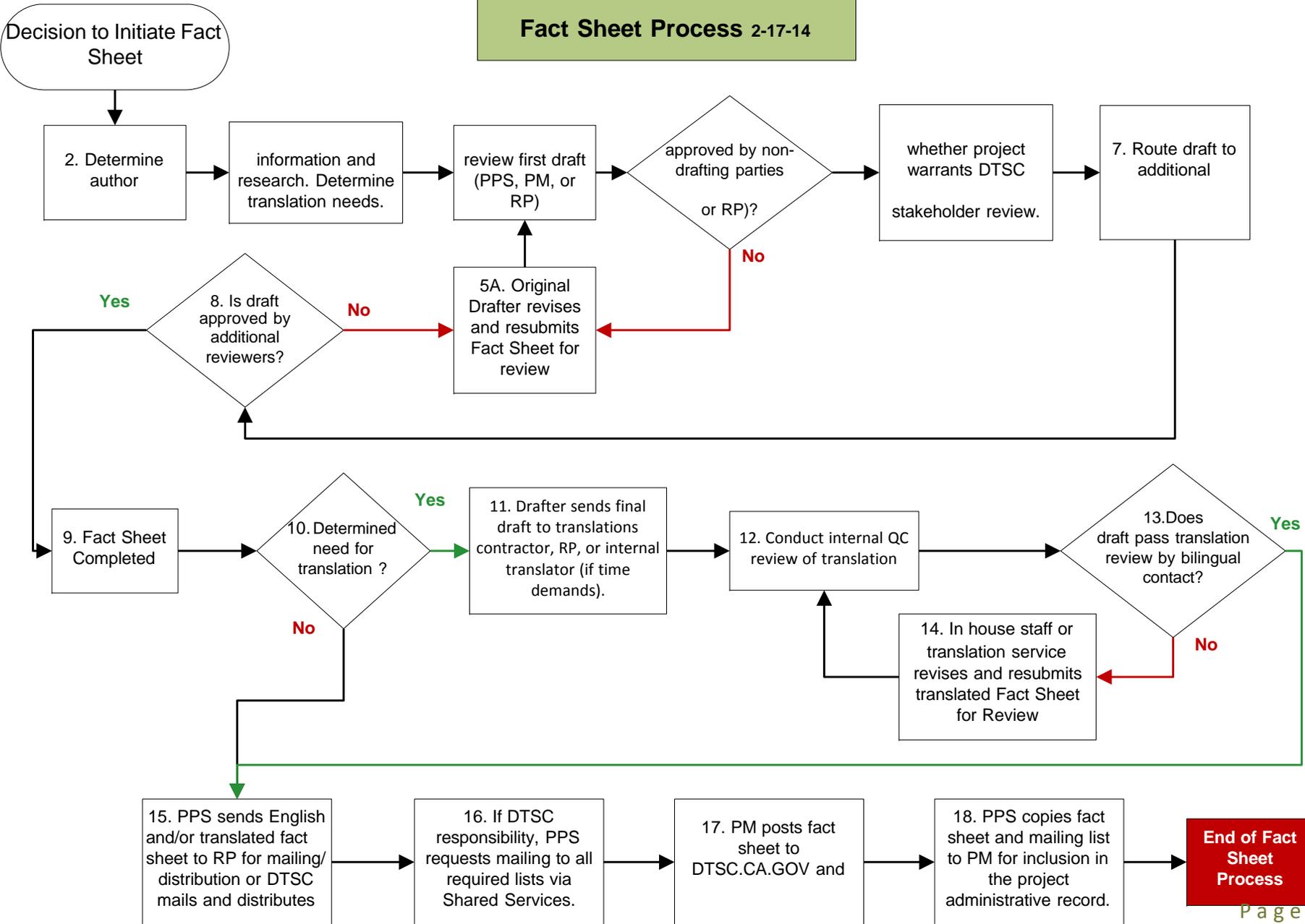


Public Hearing Process 2-17-14

PPS – Public Participation Specialist;
PM – Project Manager; RP – Responsible Party;
PPM – Public Participation Manual; PH – Public Hearing

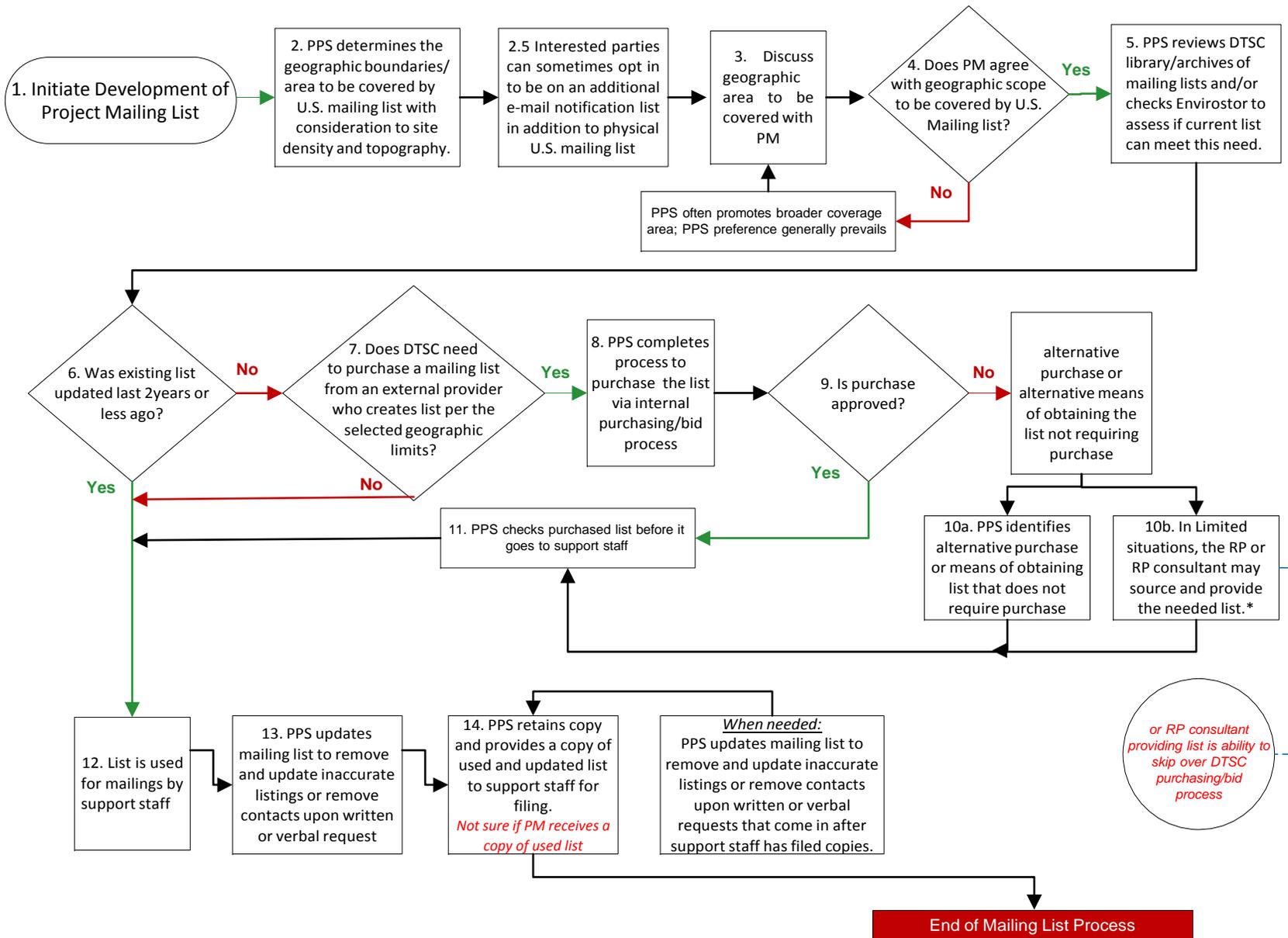
Process presumes that a separate community assessment process has been completed prior to this—PN and Fact Sheet are distributed and any radio ad, if required, has been sent to publicize the hearing per requirements





Mailing List Development/Use 2-17-14

PPS – Public Participation Specialist;
PM – Project Manager; RP – Responsible Party



Additional Opportunities to Improve Public Participation Branch Results

This section provides two other opportunities for improvement, that were made evident as part of this review but which would require either to a change of law or policy. They are beyond the span of control of the Public Participation Branch.

Modification of Public Notice requirements – and Publication

The Public Participation Branch, like many other public agencies that must notify the public of actions, is directed and constrained by law. California Administrative Code Title 22, Section 66271.9 (c) states that required public notice is completed by mailing a copy of a notice to persons on defined mailings lists and in defined groups; by publishing notice of required pending actions in a publication of a notice in a daily or weekly major local newspaper of general circulation within the area affected by the facility or activity, by broadcast over local radio stations, and by any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

The Branch Chief and unit supervisors observe that the effectiveness of traditional mail has been greatly challenged by the use of email and other electronic mediums, and that the effectiveness of publication has also been greatly challenged through the use of online mediums. It is their opinion that public notice could be much more effective, less resource intense, and less subject to legal challenge if the law were updated to reflect current technology.

Changes in Public Hearing Policy

Environmental Justice stakeholders pointed out that several changes in the conduct of public hearings would improve their positive end result. First was the time and place of scheduling. It was noted that holding the hearings at 5 p.m. is not late enough. “It takes time to get home from work, and out to a hearing.” It was also stated there is a need to “make sure those opportunities are accessible and well noticed, and held at times and places that people can attend.”

Translation is a second primary issue. It was stated that simultaneous translation should be the norm. Where translation in public hearings is offered, the time for the translation should not be counted against the speaker.

Appendix A: Public Participation Specialist Process Summaries

PUBLIC PARTICIPATION SPECIALIST PROCESS SUMMARIES

Contents

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PUBLIC PARTICIPATION SPECIALIST PROCESS SUMMARIES

The following tables represent the required and optional public participation actions/activities based on the Department of Toxic Substances Control Public Participation Manual (rev. 2001). Many of the responsibilities are broken down by Public Participation team member in Exhibit 1 of the DTSC Public Participation Manual. Additional exhibits, as listed below, are available to use as guidelines, checklists, or templates in completing the common tasks.

- Exhibit 1 – Public Participation Task Responsibilities by role
- Exhibit 6-1: Community Interest Evaluation Worksheet
- Exhibit 6-2: Community Profile Outline
- Exhibit 6-5: List of Individuals and Organizations to Interview
- Exhibit 6-6: Standard Community Interview Questions
- Exhibit 6-7: Public Participation Plan Development Checklist
- Exhibit 6-8: Public Participation Plan Outline
- Exhibit 6-9: Public Participation Plan Reviewer’s Checklist
- Exhibit 6-11: Elements to Consider for a Standard Fact Sheet
- Exhibit 6-12: Fact Sheet Production Time line
- Exhibit 6-13: Fact Sheet Production Checklist
- Exhibit 6-14: Fact Sheet Outline
- Exhibit 6-24: Types of Public Participation Meetings
- Exhibit 6-25: Checklist for Briefings
- Exhibit 6-27: Checklist for Workshops
- Exhibit 6-28: Checklist for Open Houses
- Exhibit 6-29: Briefing/Workshop/Meeting Timelines
- Exhibit 6-30: Community Meeting/Hearing Checklist
- Exhibit 6-35: Information Repository Inventory List

Appendix B: Reprographic/Mailout Request

Regional Administrative Services Branch (RASB) Reprographics/Mailout Request for Public Participation Staff

All reprographic/mailout requests must be submitted in a timely manner following the notification time limits listed in the table to the right. These time limits were developed considering all of RASB's administrative roles, responsibilities and equipment capabilities.

If you are not able to submit a request within the time frames stated, please contact the Regional Administrative Services Manager via email for approval and assistance. If RASB isn't able to process your request, they will work with other DTSC regional offices or Cal/EPA to complete the job. This is necessary in order to properly prioritize and manage the Branch's workload.

Thank you for your cooperation.

* Odd sizes, color prints, and hand stuffing may require additional time.

Quantity	RASB Notification/Submission Reprographics Request *
Less than 100	4 hours
101 - 500	1 day
501 - 1000	2 days
1001 - 2500	4 days
2501 - 5000	6 days
> 5000	8 days

PPS Name:

Today's Date:

PPS Phone Number:

Requested Completion Date:

Reporting Codes: PCA Code

Site Code

WP

MPC

SUPPORT REQUESTED:

REPROGRAPHICS

Document Title

of copies requesting

Single-sided Double-sided Stapled Collated

MAILING

Regular US Mail Certified Mail Overnight Mail Internal Mail

Include a Business Reply Envelope with Mailing

Purpose of Business Reply Envelope

- Fact Sheet Survey to be returned to Susie Williams in Cal Center Office
 After-Process Survey to be returned to Shakeh Arzoomanian in **Chatsworth Office**
 Community Survey to be returned to requesting Public Participation Specialist
 Other – please specify*

ADDITIONAL SPECIAL INSTRUCTIONS