



# DTSC Overview

prepared for the  
Independent Review Panel

December 8, 2015

Barbara Lee, Director



Department of Toxic Substances Control

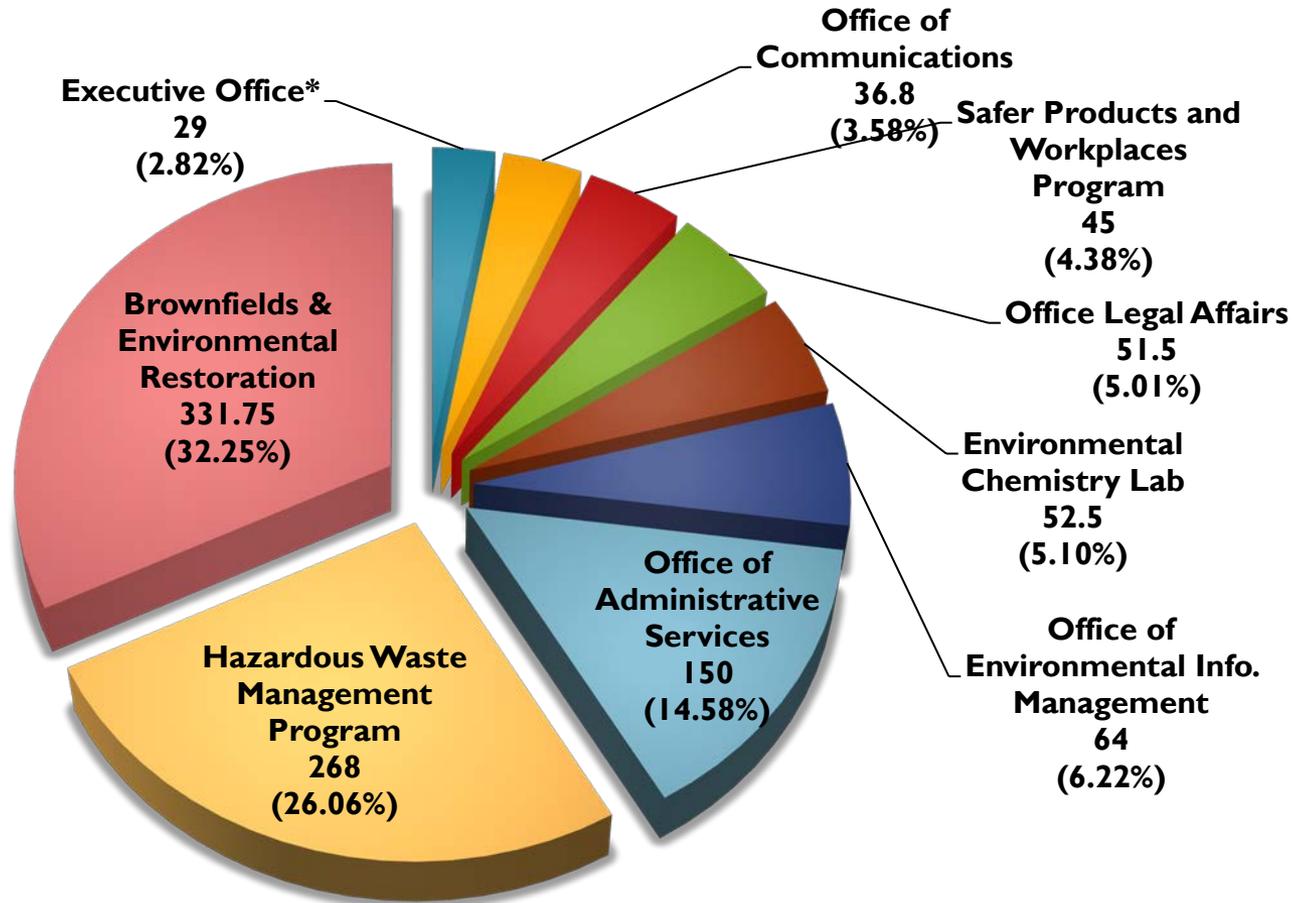


# California Department of Toxic Substances Control

The mission of DTSC is to protect California's people and environment from harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products.

# Overview of DTSC Programs

Total: 1028.55 Positions



\*Note: Executive Office includes Office of Civil Rights and Office of Legislation.

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# DTSC Vision for Improvement

- Enhance accountability
- Improve relationships with the communities we serve
- Establish a sustainable framework for ensuring continued success
- Ensure the cost of performing its regulatory work is properly covered



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# Fixing the Foundation

- Initiated in 2012
- Comprehensive plan with detailed steps to rebuild our Department
- Nearly 300 actions for improvement across all program areas



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# Focus Areas for IRP

- Enforcement
- Permitting
- Public Engagement
- Fiscal Management
- Today:
  - Overviews of each focus area
  - Improvements underway
  - Potential progress metrics



# Environmental Justice

- DTSC is committed to Environmental Justice.
- Assistant Director for Environmental Justice created in statute in 2015.
- Developing plan to embed environmental justice principles and actions into the Department's core programs.



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° **Environmental Justice**  
prepared for the  
**Independent Review Panel**

December 8, 2015

Ana Mascareñas, Assistant Director for  
Environmental Justice and Tribal Affairs



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# Environmental Justice (EJ)

- Comprehensive EJ strategy
  - Identify hidden biases, inequities
  - Emphasize early, frequent & ongoing engagement
  - Cross-program problem solving
- Prioritizing Work
  - Cal EnviroScreen
  - Enhanced Review for EJ communities



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# Enforcement

- Enforcement in Vulnerable Communities
  - CalEPA EJ Enforcement Initiative
  - IVAN and Community-Based Enforcement
  - Metal Recyclers and HW Transporters
- Supplemental Environmental Projects (SEPs)
  - Project that benefits environment or public health beyond compliance with environmental laws
  - Preference to community nexus and EJ
  - Up to 50% of enforcement settlement
  - Implementation of AB 1071



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# Community Engagement

- UC Davis (UCD) Extension Collaborative Center
  - UCD developing recommendations for, and assisting with implementation of, an enhanced public engagement strategy, *particularly in communities where there are multiple sources of pollution and residents are most vulnerable.*
- Jan – March 2016 - Strategic Focus Groups, Final Report and Public Feedback, Implementation.



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# Permitting

- Implementation of AB 1075, SB 673
- Permitting Enhancement Workplan
  - Goal 7: Inform the Public of Progress in Processing Permits
  - Goal 8: Identify and Address EJ Concerns Early in the Permitting Process
    - Develop enhanced review procedure to include a list of potential health concerns and mitigation measures.
- Draft Violation Scoring Procedure
  - Compliance history review in permitting decision

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# Hazardous Waste Reduction

- Community Protection and Hazardous Waste Reduction Initiative
  - 3 pilot projects to reduce hazardous waste generation
  - Advisory Committee applications
- Safer Consumer Products



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# Enforcement Program

prepared for the

# Independent Review Panel

December 8, 2015

Elise Rothschild, Deputy Director Hazardous  
Waste Management Program



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# Overview of Enforcement

- California's Hazardous Waste Control Law is enforced by DTSC and some parts by the CUPAs
- California's Laws for most Cleanup, Toxics in Packaging, Safer Consumer Products, Product-specific bans, and Universal Wastes are enforced by DTSC
- US EPA retains oversight for federally-enforceable requirements only

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# Enforcement Responsibilities: DTSC

## DTSC Staff:

- Enforces the hazardous waste laws,
- Enforces specified consumer product laws (e.g., lead in jewelry, toxics in packaging, banned mercury containing products, etc.) and
- Conducts emergency response removal actions.
- Provides support to Permitting Division,
- Performs CUPA evaluations,
- Serves as CUPA in Imperial and Trinity Counties (SCUPA).

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# Enforcement Responsibilities:

## CUPAs

- Chapter 6.11, Health and Safety Code authorizes local agencies to enforce California's laws as they apply to generators of hazardous waste; these agencies are called Certified Unified Program Agencies or CUPAs
- There are currently 83 CUPAs.
- California has 83,000 generators of hazardous waste.
- While CUPAs have primary authority over generators, DTSC retains oversight & can directly enforce compliance where appropriate



# SCUPA (State CUPA)- Functions

SCUPA enforcement programs include:

- Hazardous Waste Generator and Tiered Permitting Program;
- Hazardous Materials Release Response Plans and Inventory Program;
- California Accidental Release Prevention;
- Underground Storage Tanks; and
- Aboveground Petroleum Storage Act.



# DTSC Enforcement Program

- Enforcement is conducted by two groups at DTSC:
  - Enforcement and Emergency Response Division (EERD)
  - Office of Criminal Investigations (OCI).



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# Enforcement Program Elements

- Routine compliance inspections
  - Review of submitted data and reports
  - Periodic physical observation, testing and evaluation of regulated facilities
- Targeted compliance inspections
  - Review of specific units or processes in response to focused concerns or to inform permitting decisions
  - Analysis of current and historical compliance to inform permitting decisions
- Civil and criminal investigations
  - Facility specific investigations
  - Sector-based, or geographically focused investigations
- Complaint response

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# Enforcement Program Elements, cont'd

- Preparation of inspection reports and compliance data tracking
- Identification and issuance of Summary of Violation
- Resolution of Violations
  - depending on the nature of the violation discovered, the law may be resolved criminally, civilly or administratively
  - Resolution requires return to compliance, as well as fines
  - Resolution may include Supplemental Environmental Projects
  - Criminal penalties can include jail time



# Statute of Limitations

The Statute of Limitations requires that an enforcement action be filed within a specified period of time from the date of discovery of the violation.

- Felony charges must be filed within 3 years
- Misdemeanor charges must be filed within 1 year.
- Civil Actions must be filed within 5 years.



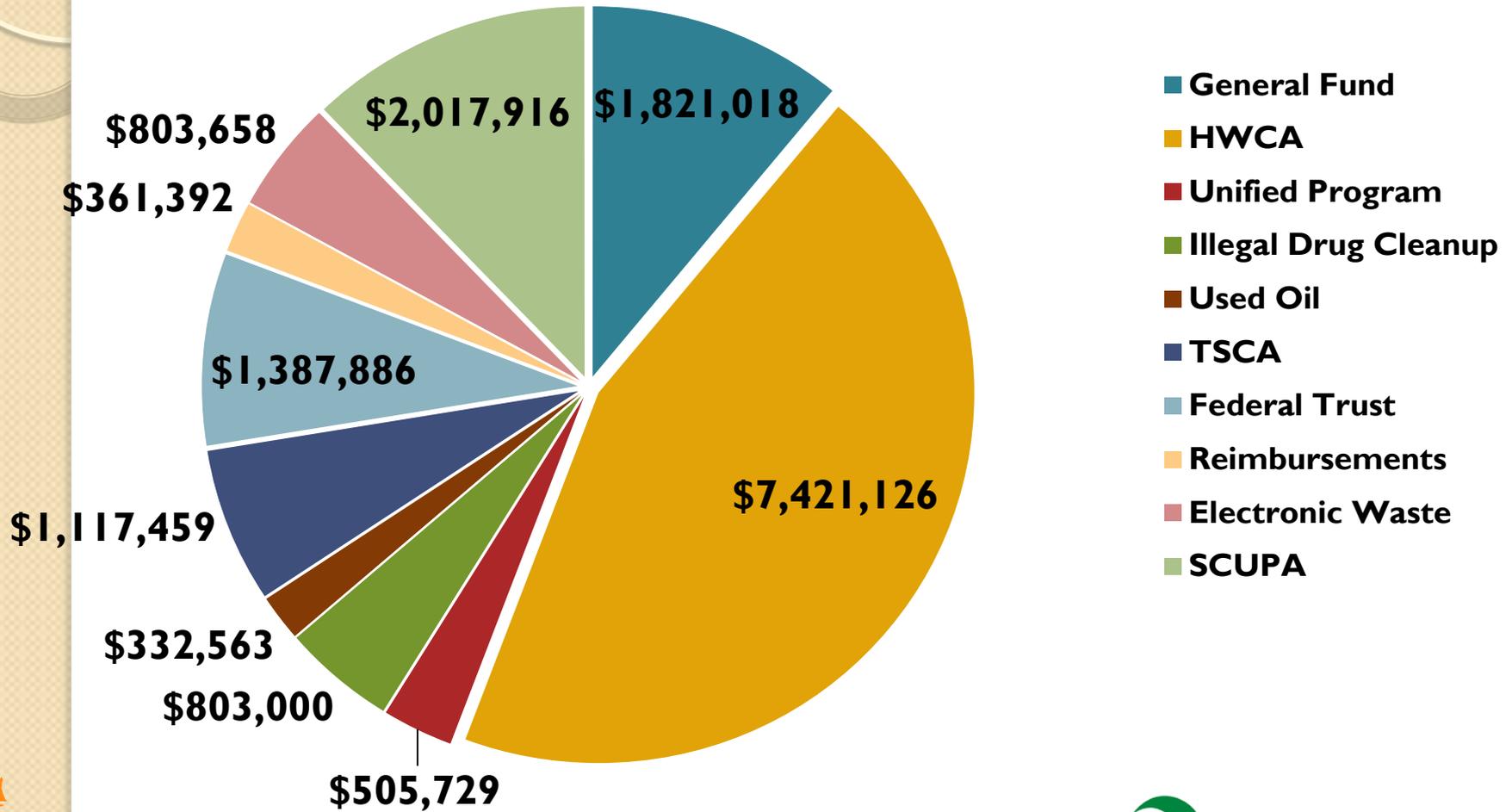
# Enforcement - Staffing

- EERD has 113 authorized positions, primarily Environmental Scientists (82 field certified).
- OCI has 33 authorized positions, sworn Criminal Investigators (15) and Environmental Scientists (15) (30 field certified).
- Both groups have support staff that include Office Technicians and Analysts.

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# Enforcement - Funding Sources



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# EERD Routine Inspection Universe

- 899 registered hazardous waste transporters (as of December 2, 2015)
- 119 facilities with 127 hazardous waste permits
- 47 e-waste recyclers



# EERD Inspection Frequency

<b>Facility Type</b>	<b>Frequency</b>
<b>Operating Federal Facility with HW Permit (11)</b>	Every year
<b>Operating HW Landfills (3)</b>	Every year
<b>Operating treatment or storage facility with a HW Permit (47)</b>	Every 2 years
<b>Operating treatment or storage with a Standardized or State only HW Permit (32)</b>	Every 1 - 3 years.
<b>Facility with HW Post Closure Permit (30)</b>	Every 3 – 5 years.



# EERD Statistics

<b>Fiscal Year</b>	<b>Inspections</b>	<b>Inspections with Class I Violations</b>	<b>Enforcement Actions</b>	<b>Penalties</b>
2012/2013	399	33	71	\$ 2,209,494.00
2013/2014	401	28	63	\$ 1,795,766.00
2014/2015	402	52	46	\$ 2,706,462.00
<b>Totals</b>	<b>1202</b>	<b>113</b>	<b>180</b>	<b>\$ 6,711,722.00</b>

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# Inspection Framework and Policies

- RCRA Authorization and Grant establish performance goals for inspections based on the most recent RCRA Compliance Monitoring Strategy.
- Section 25185 HSC requires DTSC to send completed inspection report to facility within 65 days of inspection.
- Inspections must conform with “DTSC Policy for Conducting Inspections” (DTSC-OP-0005).



# Enforcement Framework & Policies

- RCRA Authorization and Grant establish performance goals for enforcement based on the most recent RCRA Civil Penalty Policy.
- Section 25180.2 HSC requires DTSC to prioritize an enforcement action in an environmental justice community.
- Administrative Penalties must be calculated using the regulations (Title 22, Cal. Code of Regs., Div. 4.5, Ch. 22, Art. 3. Assessment of Administrative Penalties).
- Enforcement Actions must conform with the “Enforcement Response Policy” (DTSC-OP-0006).



# Fixing the Foundation:

## Enforcement

As part of Fixing the Foundation, Enforcement has completed initial tasks that address the following items:

- Improve the efficiency and consistency in enforcing state hazardous waste laws and make the enforcement program's information and processes more accessible to the public.
- Establish clear priorities for the enforcement program.
- Ensure that CUPAs properly and effectively implement the hazardous waste program.
- Share all enforcement data with the public through the EnviroStor public web site.

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# Improving Enforcement Performance Initiative

- DTSC received resources in FY 15/16 to improve enforcement performance
- The Initiative specifies five goals for improving the enforcement program:
  - Clearly define the inspection and enforcement process and identify areas for improvement.
  - Create a formal review process for enforcement case management.
  - Clearly communicate the inspection and enforcement processes to stakeholders and the community.
  - Incorporate community engagement in setting priorities.
  - Establish clear metrics to evaluate performance.

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# Improving Enforcement Performance Initiative

- The Initiative includes preparation of a work plan to accomplish the five goals
- Other key deliverables include:
  - Complete revisions of existing inspection and enforcement policies
  - Finalize draft inspection guidance documents
  - Develop/enhance standardized reporting forms, document formats, etc.
  - Identify and provide training to staff in new policies, guidance, processes and forms



# Improvement Projects Underway

DTSC's Fixing the Foundation report called for resolving coordination gaps between permitting and enforcement.

- Soliciting public comment on proposed enforcement settlements.
  - Pilot project to solicit public comment on proposed negotiated enforcement settlements begun on January 1, 2015.
  - Pilot project period extended to December 31, 2015.
    - No respondents volunteered to participate during the original pilot project trial period (January 1 – June 30, 2015).
    - If no respondents volunteer by December 31, 2015, the trial period will be extended to June 30, 2016.
  - Evaluate practicality and options for making fines/penalty calculation information public.
    - Requires the participation of the Office of Legal Counsel and the Office of the Attorney General to implement this item. New Enforcement staff will be coordinate evaluation and proposing modifications to existing process.

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# Improvement Projects Underway

- Establish and implement guidance that defines the roles and responsibilities of Permitting and Enforcement staff in such areas as:
  - Determination of compliance status and compliance history review for permitting decisions
  - Development of permit conditions
  - Interpretation of requirements and permit conditions
  - Preparation and conduct of compliance inspections
  - (guidance is pending finalization)
- Establish and implement guidelines to assess a facility's compliance history for decisions about permit approval, denial and revocation.

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Cal/EPA



# Assessing Compliance History

- Section 25186.3 HSC requires DTSC to evaluate a facility's compliance history when evaluating applications to modify or renew the permit
- Staff developed a Violation Scoring Procedure (VSP) concept to make compliance evaluations more consistent, transparent and accountable
- Presentations have been made to EJ groups, industry, and Legislative staff soliciting comment
- DTSC plans to begin formal rulemaking in 2016 to establish the VSP in regulation

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# OCI - Investigative Universe

OCI has broad jurisdiction to investigate hazardous waste crimes, including:

- Statewide investigations of businesses with multiple locations.
- Responding to complaints from Cal/EPA's On-line Complaint System, DTSC's Hazardous Waste Alert Hotline , and other sources
  - Based on potential criminal activity
  - Motive/knowledge/intent to commit the violation
  - Level of threat to human health and/or the environment

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# Enhanced Enforcement in Vulnerable Communities (Metal Recyclers) Initiative

DTSC requested additional funding to conduct and initiative in vulnerable communities as identified by CalEnviroScreen. The Budget Change Proposal (BCP) identified the following outcomes:

- Double the number of hazardous waste transporter inspections conducted annually to 90.
- Conduct 42 inspections of metal recyclers located within vulnerable communities and refer cases for prosecution within the first two years.
- Support prosecutors on referrals and policy staff in development of regulatory requirements.



# Overview – Statistics OCI

<b>Fiscal Year</b>	<b>Cases Opened</b>	<b>Cases Closed</b>	<b>Cases Referred</b>	<b>Cases Resolved</b>	<b>Criminal Convictions</b>	<b>Civil Cases Resolved</b>	<b>Penalties</b>
2012/2013	136	147	6	20	5	15	\$1,278,488.00
2013/2014	67	111	14	16	23	8	\$1,932,368.00
2014/2015	48	85	5	19	17	14	\$11,401,898.00
<b>Totals</b>	<b>251</b>	<b>343</b>	<b>25</b>	<b>55</b>	<b>45</b>	<b>37</b>	<b>\$14,612,754.00</b>



# Improving Investigations: Lean Six Sigma Initiative

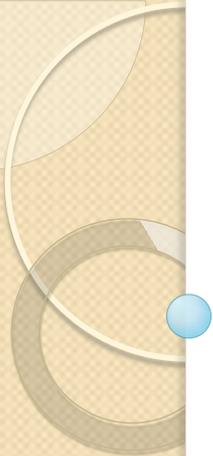
- Data indicated that OCI cases take an average of 400 days from the date of initial investigation to referral to the District Attorney or Attorney General.
- OCI completed a Lean Six Sigma project started in February 2015 to address the backlog of cases.
- The recommendations from the project include:
  - Use of case tracking system with a step rating system
  - Use of a matrix to evaluate value and complexity to prioritize caseload
  - Identification of metric to evaluate performance
  - Achieve a target of 95% of cases filed within 6 months.



# Proposed Performance Metrics

- Number of:
  - Inspections performed per reporting cycle, by category
  - Investigations conducted & cases referred
  - Violations cited, by class (other categories?)
  - Cases resolved, by category
- Time elapsed between:
  - Date of inspection and completion of inspection reports
  - First observation/notice and issuance of Summary of Violation
  - Case initiation and referral
- Dollar amount of (important to track but inappropriate to have target):
  - Total penalties/fines assessed
  - Value of SEPs
- Compliance Rates for permitted facilities, other categories
- Overlay above data for comparison in CalEnviroScreen





# Permitting Program

prepared for the

## Independent Review Panel

December 8, 2015

Elise Rothschild, Deputy Director  
Hazardous Waste Management Program

Terri Hardy, Special Assistant  
Program Review

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# Permitting Program Mission Statement

Permitting Division protects Californians and the environment from toxic harm by making timely, enforceable, and protective permit decisions for the operation of hazardous waste facilities in accordance with all applicable laws and sound science.



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# Overview

## Core Activities

- Review hazardous waste permit applications
  - New permits
  - Modifications to Existing Permits
  - Renewal of Existing Permits upon Expiration
  - Emergency Permits
- Approve or Deny Permit Applications
- Prepare and Issue Approved Permits

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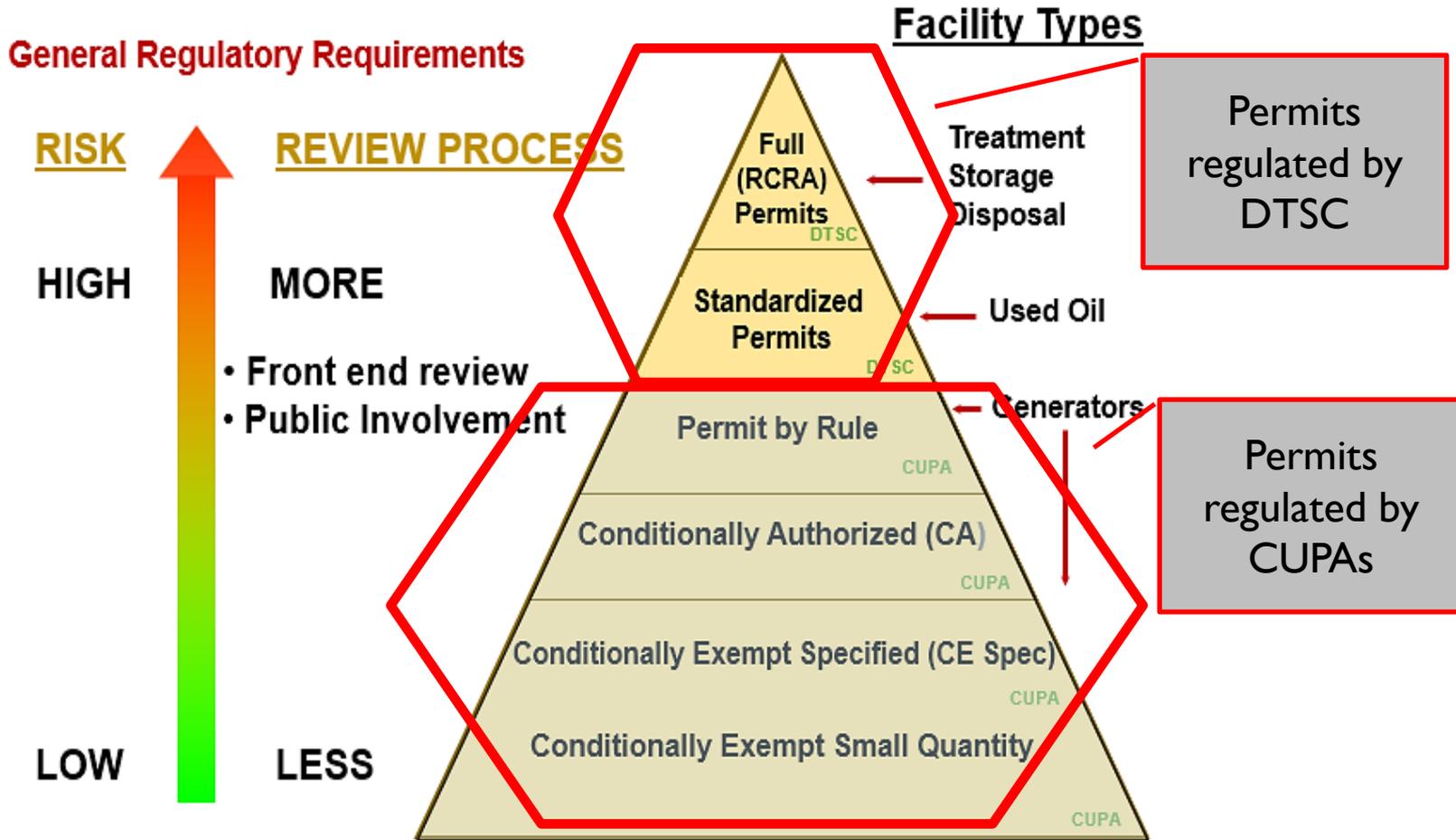


# Overview – Other Functions Related to Permitting

- Closure Oversight/Approval
- Enforcement Support
- Permit Maintenance, including:
  - Processing Permit Modifications
  - Environmental Media Monitoring Oversight
  - Compliance Schedule Items
- Support/ Reporting to US-EPA



# Overview – Five Tiers of Permitting Types



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# Overview – Broad Set of Requirements



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# Overview

## Types of Permits:

- **Operating**
- **Post Closure**
- **Permit modifications**
- **Emergency**
- **Closure**



PANOCHÉ FACILITY  
MARCH 2001



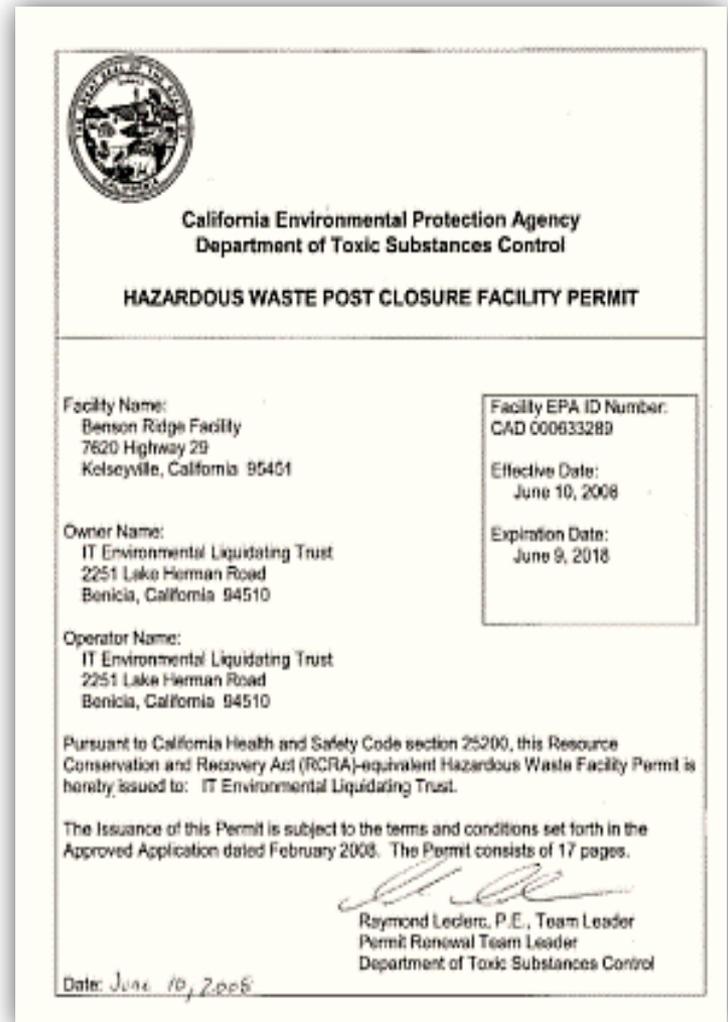
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# Overview – Defining a Permit

Permission for Hazardous Waste related activity includes:

- Allowance to treat, store, transfer, or dispose of hazardous waste
- Comprehensive description of facility
- Closure and financial information
- Enforceable terms and conditions binding on the facility
- Valid for up to 10 years, and continues upon timely submittal of application for renewal



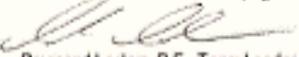
  
California Environmental Protection Agency  
Department of Toxic Substances Control

**HAZARDOUS WASTE POST CLOSURE FACILITY PERMIT**

Facility Name: Benson Ridge Facility 7620 Highway 29 Kelseyville, California 95451	Facility EPA ID Number: CAD 000633289
Owner Name: IT Environmental Liquidating Trust 2251 Lake Herman Road Benicia, California 94510	Effective Date: June 10, 2008
Operator Name: IT Environmental Liquidating Trust 2251 Lake Herman Road Benicia, California 94510	Expiration Date: June 9, 2018

Pursuant to California Health and Safety Code section 25200, this Resource Conservation and Recovery Act (RCRA)-equivalent Hazardous Waste Facility Permit is hereby issued to: IT Environmental Liquidating Trust.

The Issuance of this Permit is subject to the terms and conditions set forth in the Approved Application dated February 2008. The Permit consists of 17 pages.

  
Raymond Lederer, P.E., Team Leader  
Permit Renewal Team Leader  
Department of Toxic Substances Control

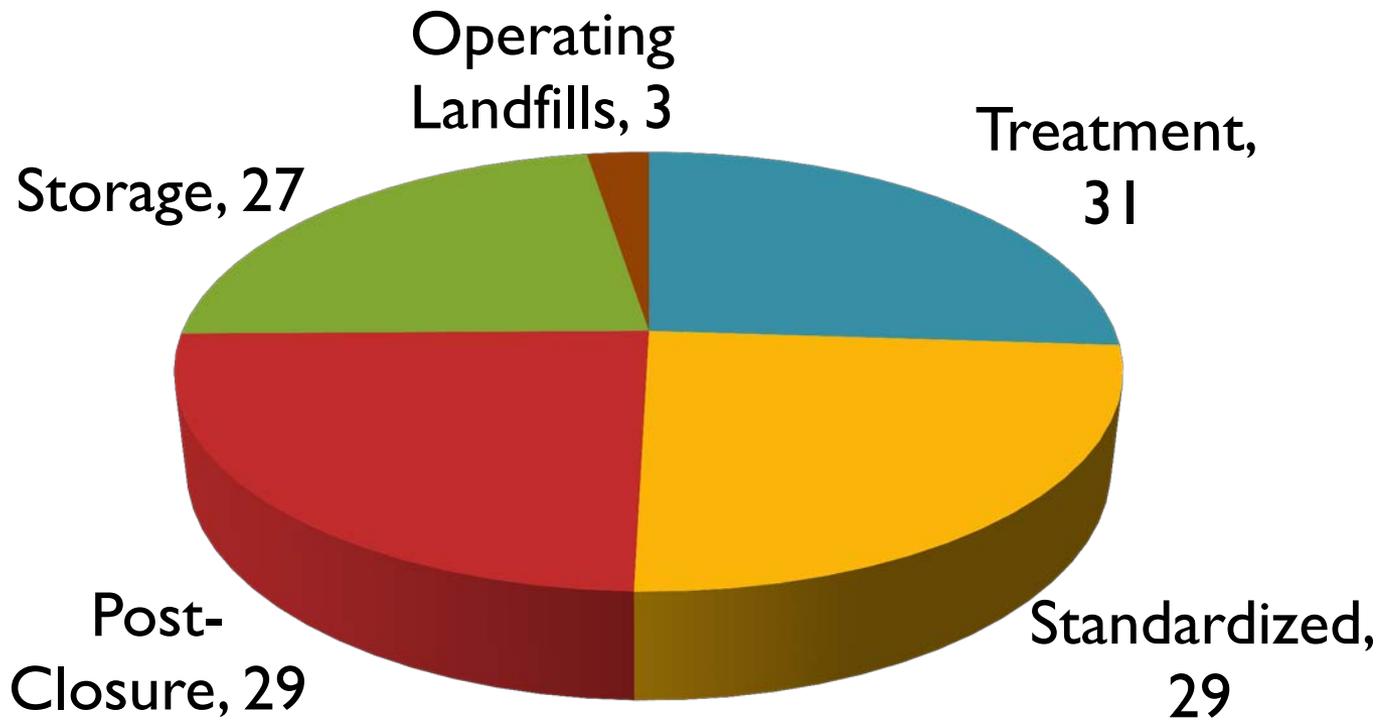
Date: June 10, 2008

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# Overview – Universe of Permitted Facilities

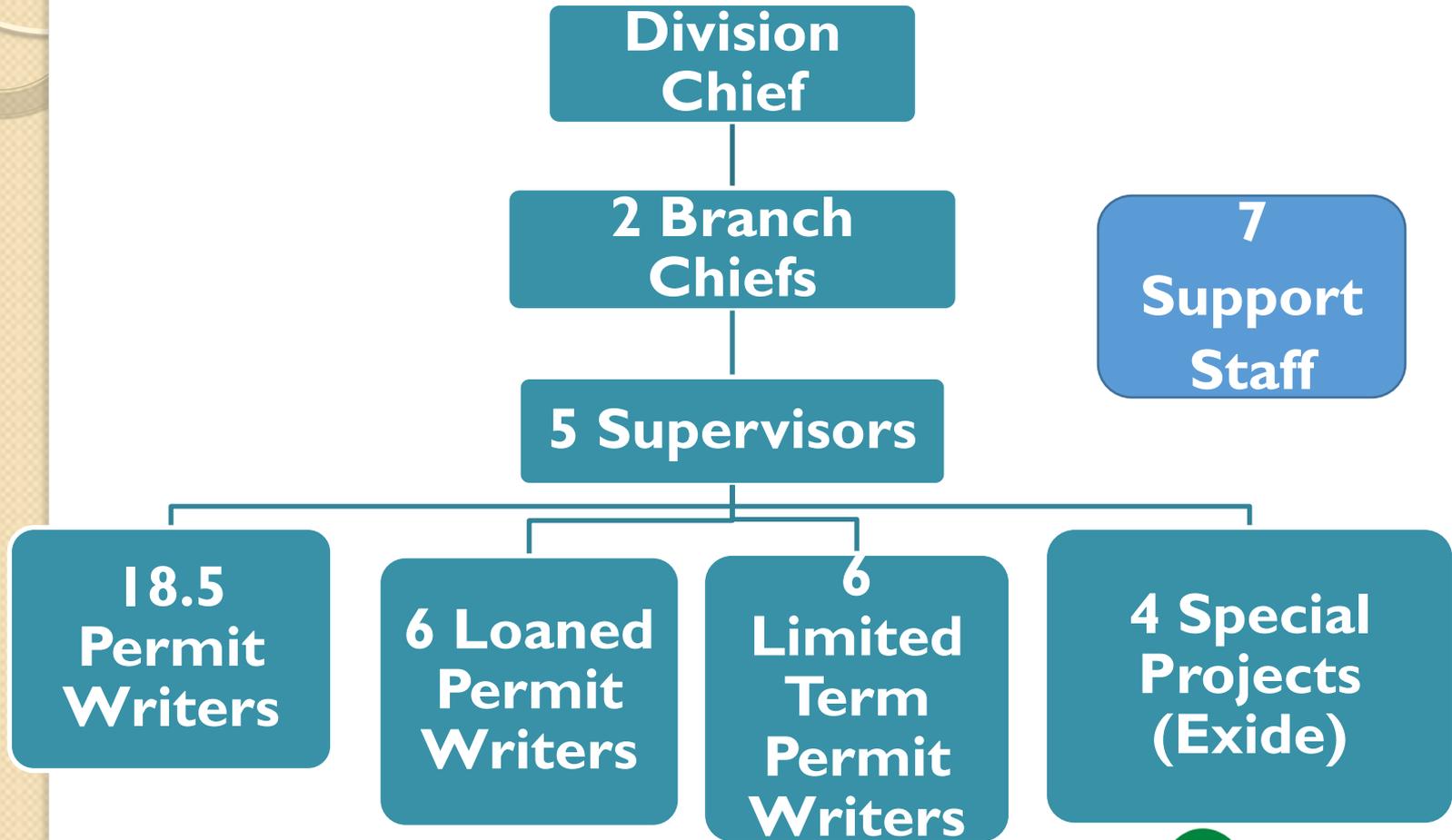
119 facilities with 127 hazardous waste permits



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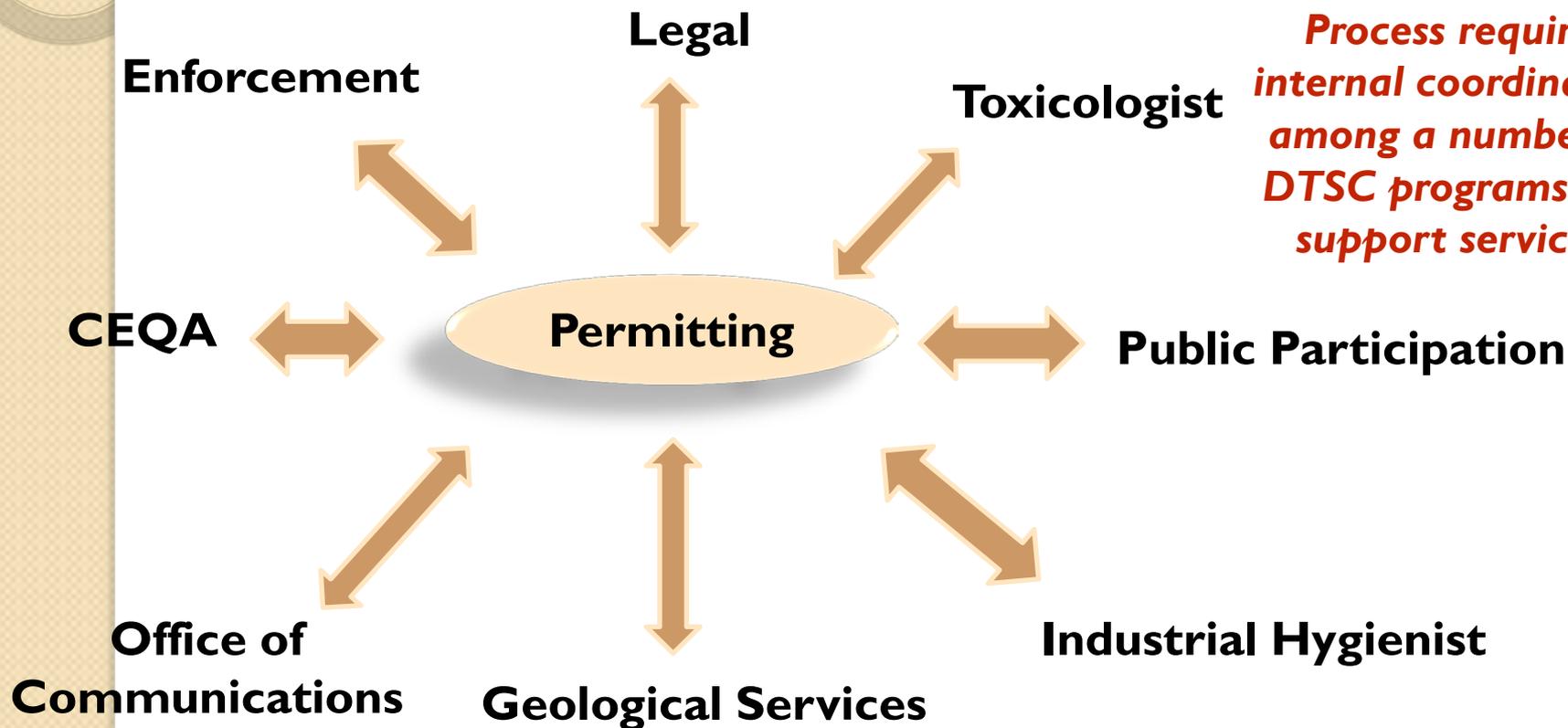


# Overview – Permitting Division Staff Levels



# Overview – Intra-Departmental Coordination

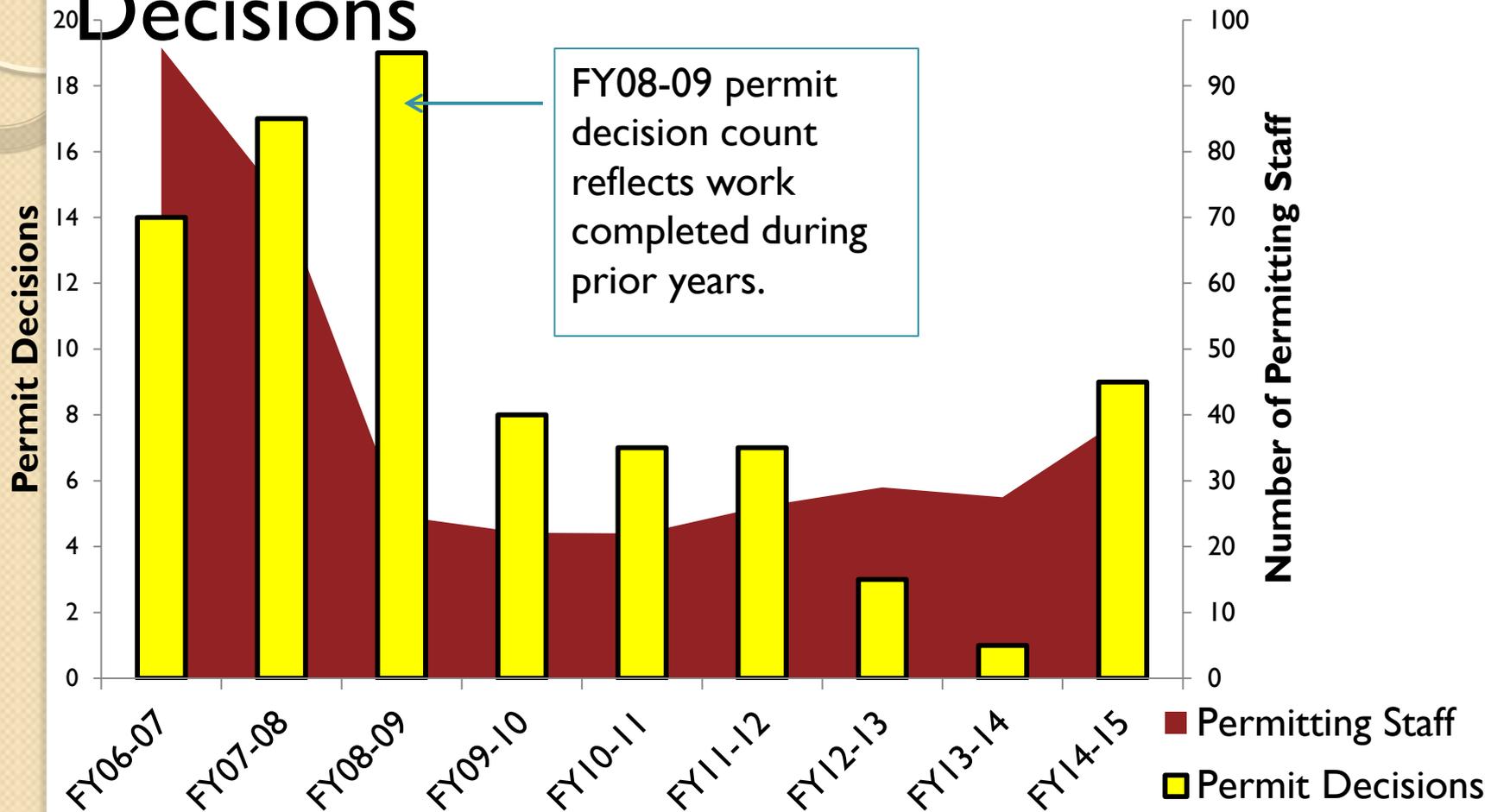
*The Permitting Process requires internal coordination among a number of DTSC programs and support services.*



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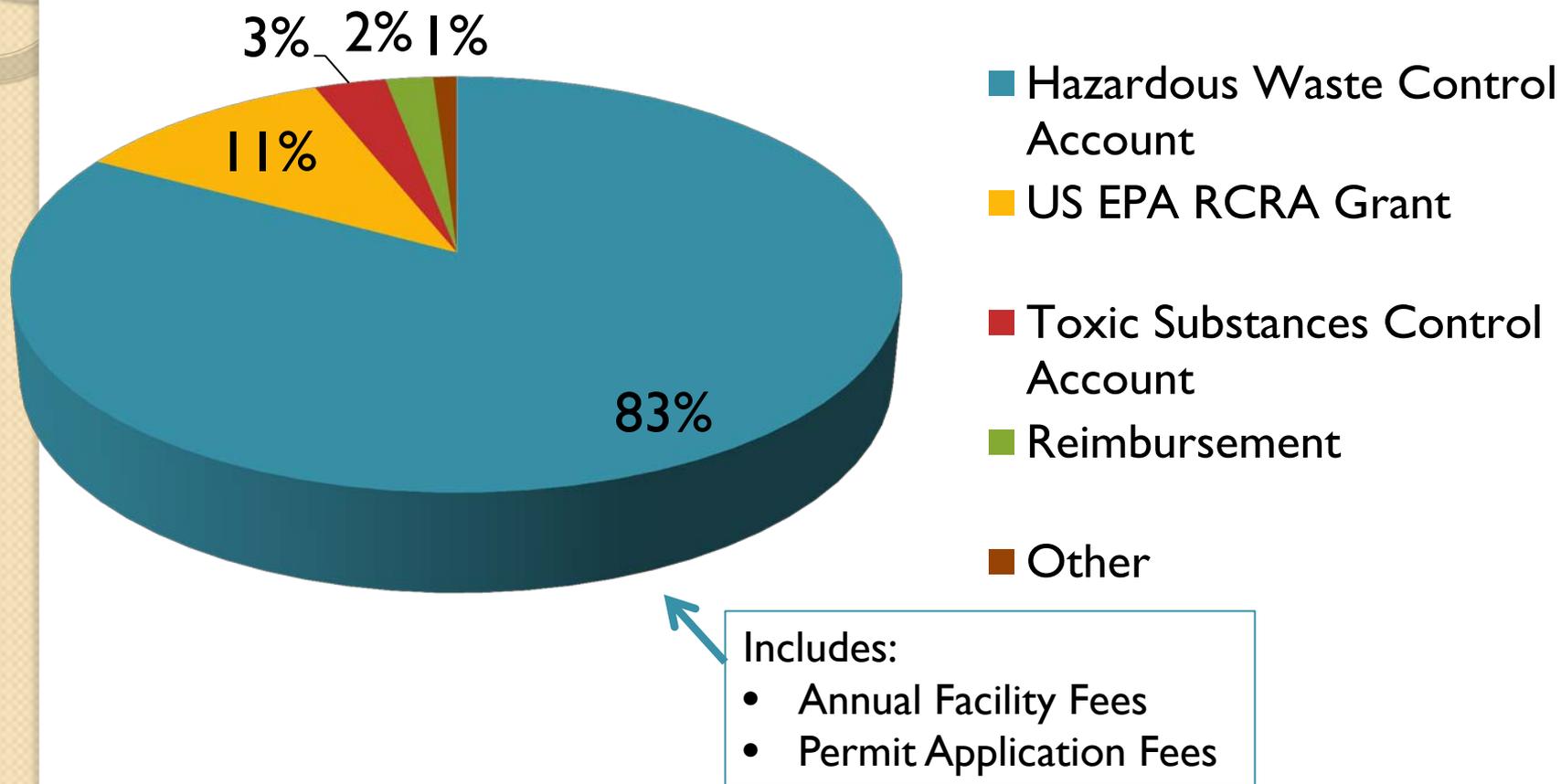
# Overview – History of Staff Levels and Permit Decisions



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# Overview – Permitting Funding Sources



# Improvement Background

- 2012 Fixing the Foundation Initiative
  - Identified goals for improving the hazardous waste management program and public engagement
  - DTSC commissioned an external review of Permitting Program, performed by CPS



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# Improvement Background

## DTSC Baseline Performance

- CPS Study (2013) key findings
  - Lengthy delays in permit decisions resulting in a backlog of pending renewal applications.
  - Lack of a management structure within the permitting program
  - Lack of defined and universally applied processes for making permit decisions
  - Lack of staff training
  - Lack of criteria for determining when to deny or revoke a permit
  - Lack of performance metrics



# Improvement Process – Permit Backlog Reduction Initiative

- Permit Backlog
  - 24 permits identified as backlogged in FY14-15
  - Backlog represents permits operating on ‘continued status’ for more than 5 years past expiration
- Continued Status Permits
  - Permits that are on “continued status” beyond the expiration date
  - Renewal application must be submitted prior to expiration date to qualify to be continued



# Improvement Goals

- Decrease time to act on permit applications
- Reduce permit backlog
- Increase transparency and accountability of decision-making
- Improve enforceability of permits
- Enhance public participation in permit process
- Improve financial assurance for closure



# Improvement Status – Backlog Reduction Initiative

## Backlogged Permit Renewal Decisions

- FY14-15: 8 completed
- FY15-16: On track to complete 9
- FY16-17: On track to complete 7

	FY14-15	FY15-16	FY16-17	FY17-18	FY17-18
<b>Permits in Backlog</b>	<b>24</b>	<b>16</b>	<b>7</b>	<b>0</b>	<b>0</b>
<b>Backlog Reduction</b>	<b>8</b>	<b>9</b>	<b>7</b>	<b>0</b>	<b>0</b>



# Improvement Status – Backlog Reduction Initiative

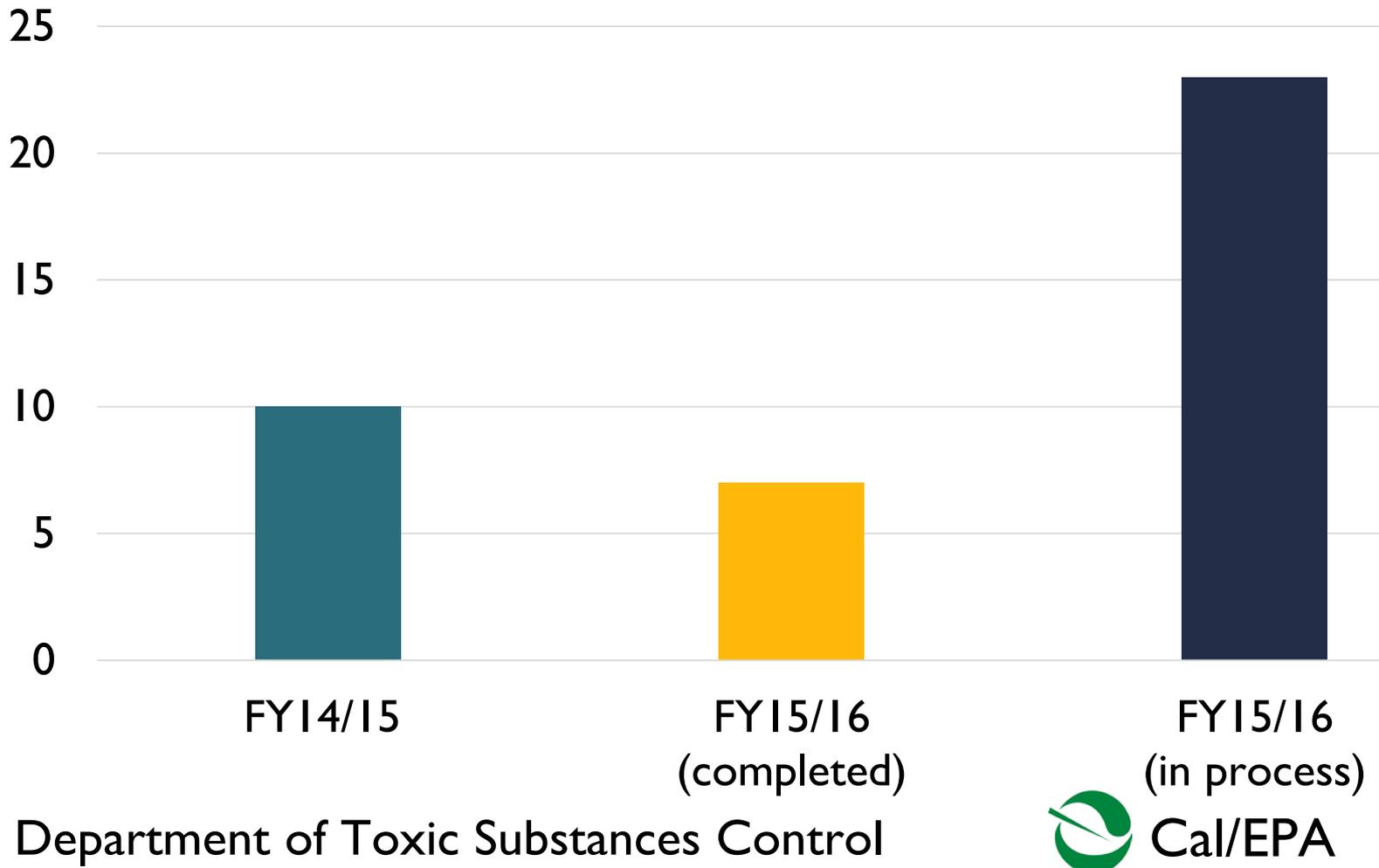
<b>All Permit Renewal Actions</b>	<b>Year 14-15</b>	<b>Year 15-16</b>	<b>Year 16-17</b>	<b>Year 17-18</b>	<b>Year 18-19</b>	<b>Year 19-20</b>	<b>Year 20-21</b>
Incoming Renewal Permit Applications	6	10	15	16	16	9	7
Permit Decisions at Current Authorized Staff Levels	9*	9	7	6	6	6	6
Continued Status Permits	37	38	45	59	69	72	73
Permits Continued > 2 Years (Goal)	27	18	14	13	17	26	36
Permits Continued > 5 Years (Backlog)	24	16	7	0	0	0	0

\* Includes Exide permit denial.

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# Improvement Status – Closure Cost Estimate Review

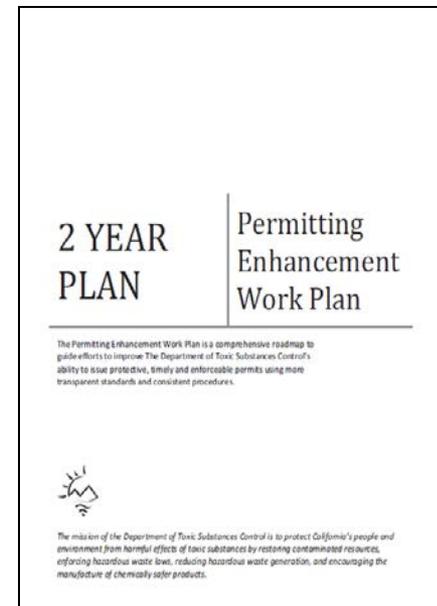


# Improvement Process: Permitting Enhancement Work Plan

## 86 Action Items Under 10 Goals

### Key Provisions include:

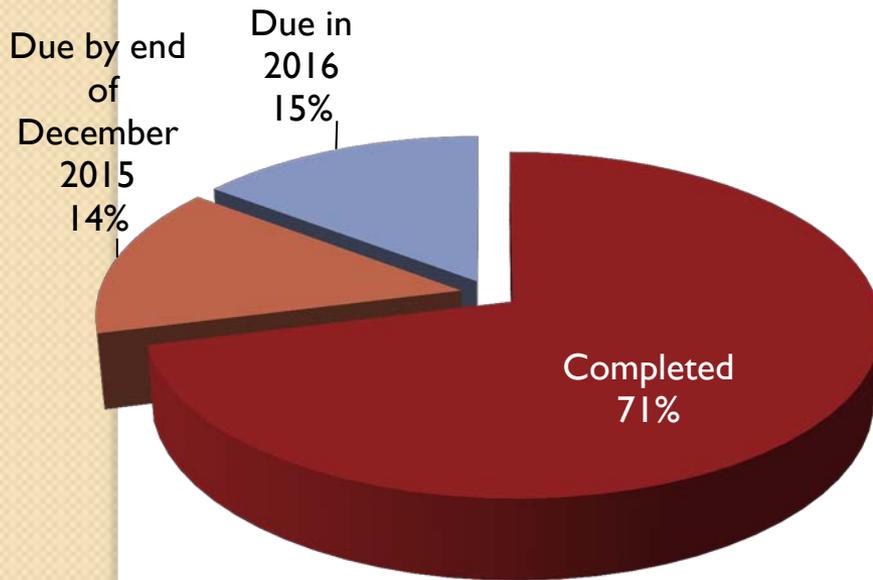
- Accountability, Supervisory and Organizational Structure
- Lean Six Sigma (LSS)-Phase I and II
- Notice of Deficiencies Process Improvement/LSS Phase III
- Permit Writer's Manual/Companion Document/Guidance
- Cross-Program Coordination
- Violations as a Basis of Permit Denial
- Environmental Justice and Public Participation
- EnviroStor actions
- Training actions



# Improvement Status: Permitting Enhancement Work Plan

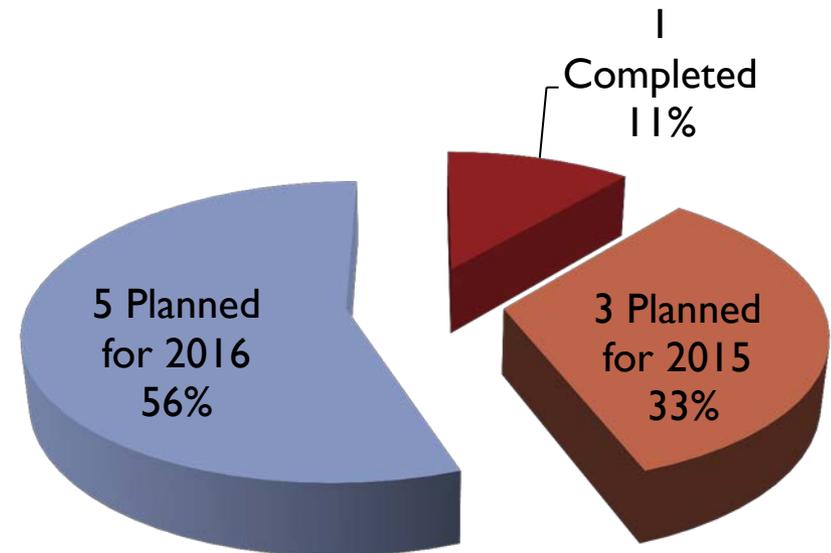
## Action Item Status

(Total of 86 items)



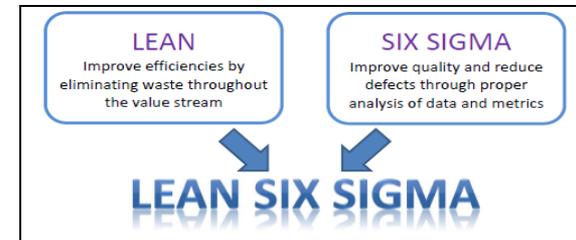
## Additional Actions

(Total of 9 items)



# Highlights: Lean Six Sigma

- Collaborative team methodology to improve performance by reducing waste and improving quality
- Three sequential projects complete:
  - Technical Review Process → Identified consistent use of technical review checklist and associated “Early Warning System” audit tool
  - Overall Permitting Process → Identified Administrative Completeness period as timeframe for improvement
  - Notice of Deficiency Process → Identified Pre-Application Meeting with applicant to align expectations and reduce deficiencies



# Highlights: Permitting Process Flowchart

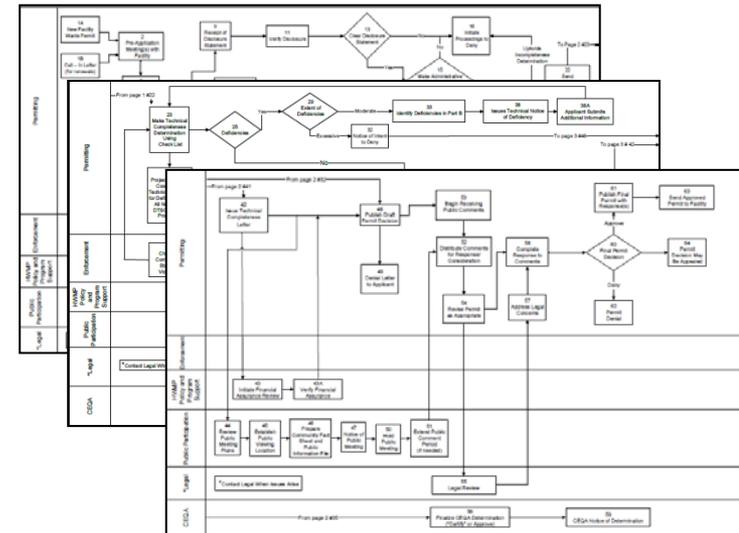
- **Baseline Process Flowchart**

- July 2014: Initial workshop
- Consensus of current permitting process steps

- **Improvement Workshop**

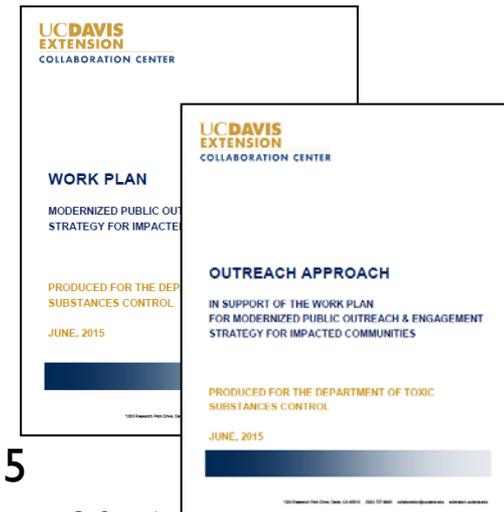
- September 2015: Process flowchart updated
- Incorporated work plan deliverables and other improvements

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# Highlights: Public Engagement/Environmental Justice

- UC Davis Extension Collaboration Center under contract for support in:
  - Modernizing public participation and community outreach at DTSC
  - Developing new engagement strategy to involve stakeholders early
  - Enhancing environmental justice considerations during the permitting process
  - Draft Recommendations Report in December, 2015
  - UC Davis will support implementation through March 2016
- Meetings to be held Dec –Feb with environmental groups and EJ advocates statewide to solicit initial feedback and support.



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# Highlights: Improving Enforceability & Protectiveness

- Limiting the number of Notices of Deficiency through enhanced pre-application planning, application review, and notice preparation
- Closer collaboration of Permitting and Enforcement teams during application review and evaluation
- Enhanced evaluation of facility compliance history (Violation Scoring Procedure)
- Establishing clearer performance standards and compliance conditions (ongoing)



# Performance Metrics

- Time elapsed for:
  - Administrative Review
  - Technical Completeness
    - Notice(s) of Deficiency
    - Determination of Completeness
  - Proposed and final permit decisions
  - Financial Assurance Review (time between)
- Number of:
  - permit decisions
  - continued permits > 2 yrs post expiration
- Develop metrics for enforceability



# Public Outreach

prepared for the

# Independent Review Panel

December 8, 2015

Jim Marxen, Deputy Director  
Office of Communications

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# Program Background

- 22 positions
- One manager
- Three supervisors
- 18 specialists



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# Objectives of Program

- Meaningful public engagement
- Opportunities for engagement with decision-makers
- Community-tailored outreach



# Program's Role

- Ensure community's needs met
- Advise project team and management



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# Process

- Well-defined in law and policy, but ...in practice varies by:
  - Type of action being taken
  - Underlying authority used (and requirements of it) for DTSC's action
  - Community's communication needs



# Guidance

- Widely used guidance outlines:
  - Program goals
  - Roles and responsibilities
  - Legal mandates
  - Process for each decision
  - Optional steps
- Contains checklists
- Serves as a basis for training



## Public Participation Activities During HWM Permitting Processes (continued)

Public Participation Activities	Low Interest Permit	High Interest Permit	Incin. BIF Permit	Incin. BIF Trial Burn	Class 1 Permit Mod.	Class 2 Permit Mod.	Class 3 Permit Mod.	Non-PBR TTU Permit	PBR TTU Permit	Standardized Permit	RD&D Permit
Public Participation File	x	x	x	x	x	x	x	x	x*	x	x
Document Inquiries	x	x	x	x	x	x	x	x	x*	x	x
Phone Log	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*	x*
Community Assessment	x	x		x*	x*						
Community Profile		x									
Community Survey		x*									
Public Participation Plan		x*	x								
Mailing List	x	x	x	x	x	x	x	x	x*	x	x
Information Repository(ies)	x	x	x	x	x*	x	x	x	x*	x*	x
Inform Other Agencies	x	x	x	x	x*	x	x	x	x*	x	x
Brief Local Officials	x*	x*	x	x*			x*	x*			x*
Information Letter		x*	x*	x*				x*			
Flyer		x*	x*								
Fact Sheet	x	x	x	x			x	x	x*	x	x
Public Notice	x	x	x	x	x^	x^	x=	x	x*	x	x
Direct Mail	x	x	x	x	x^	x^	x=	x		x	x
Newspaper Display Ad	x	x	x	x	x^	x^	x=	x		x	x
Paid Radio Ad	x	x	x				x	x			x
Public Service Radio Spot	x*	x*	x*								x*
45-Day Public Comment Period	x	x	x				x	x			x
60-Day Public Comment Period		x*				x^	x^				
Briefing		x*	x*				x*				x*
Workshop		x*	x*				x*				x*
Open House		x*	x*				x*				x*
Small Group Meeting		x*	x*				x*				x*
Public Information Meeting		x*	x				x^	x^	x*		x*
Public Hearing	x*	x	x				x	x			x
Transcript	x	x	x				x	x			x
Analysis of Comments	x	x	x				x	x			x
Response to Comments	x	x	x				x	x			x
Notice of Final Decision	x	x	x				x	x			x
Monitor Community Interest	x	x	x				x	x			x

### Legend:

**x Required**    **x\*** Discretion of the PPS    **x^** Facility Responsibility    **x=** Facility & DTSC Responsibility



# Process for Community Engagement

- Community assessment
- Fact sheets/notices
- Web site postings
- Informal and formal meetings
- Comment periods
- Response to comments



# The Permitting Process



## Technical Process

Receipt of Application



DTSC Reviews Application



Determination of Technical Completeness



Draft Permit or Notice of Intent to Deny



Final Permit Decision



## Required Public Participation Activities

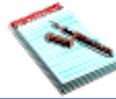
Applicable CEQA Requirements



Public Notice & Fact Sheet



Public Comment Period



Public Hearing if Necessary



Notice of Decision & Response to Comments

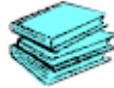


## Recommended Public Participation Activities

Community Assessment



PP Plan



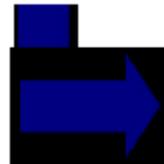
Repository Fact Sheets



Informal Meetings Workshops



News Release



# Expanded Process

- Based on community's communication needs:
  - Additional meetings, briefings, fact sheets
  - Extended comment periods
  - Advisory groups



# Project Manager Role

- Team leader
- Requests support
- Manages budget
- Tracks work
- Plays critical role in outreach



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# Envirostor

- Tool used to assign and track work
- Public access via DTSC web site
- Public documents



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# Community Input

- Plays a key role in prioritization
- Tailoring community outreach



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# Program budgeting

- Positions
- Expenses (travel, equipment, contracts, etc.)
- Daily Log
- Billing

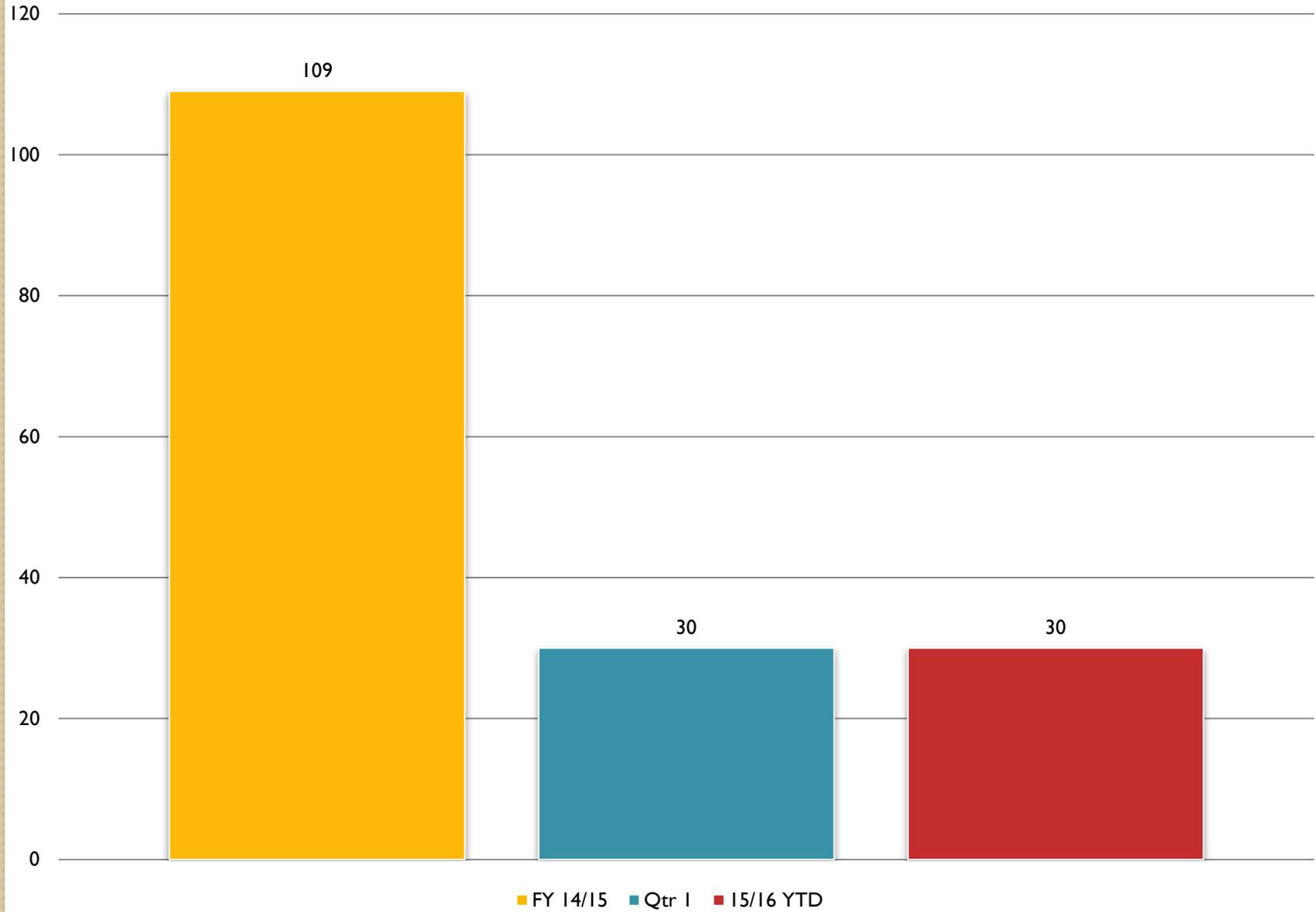


# Current Performance Metrics

- Public meetings
- Public notices
- Number of community assessments
- Reach of the program
- Social media:
  - Number of Twitter followers
  - Number of Facebook likes



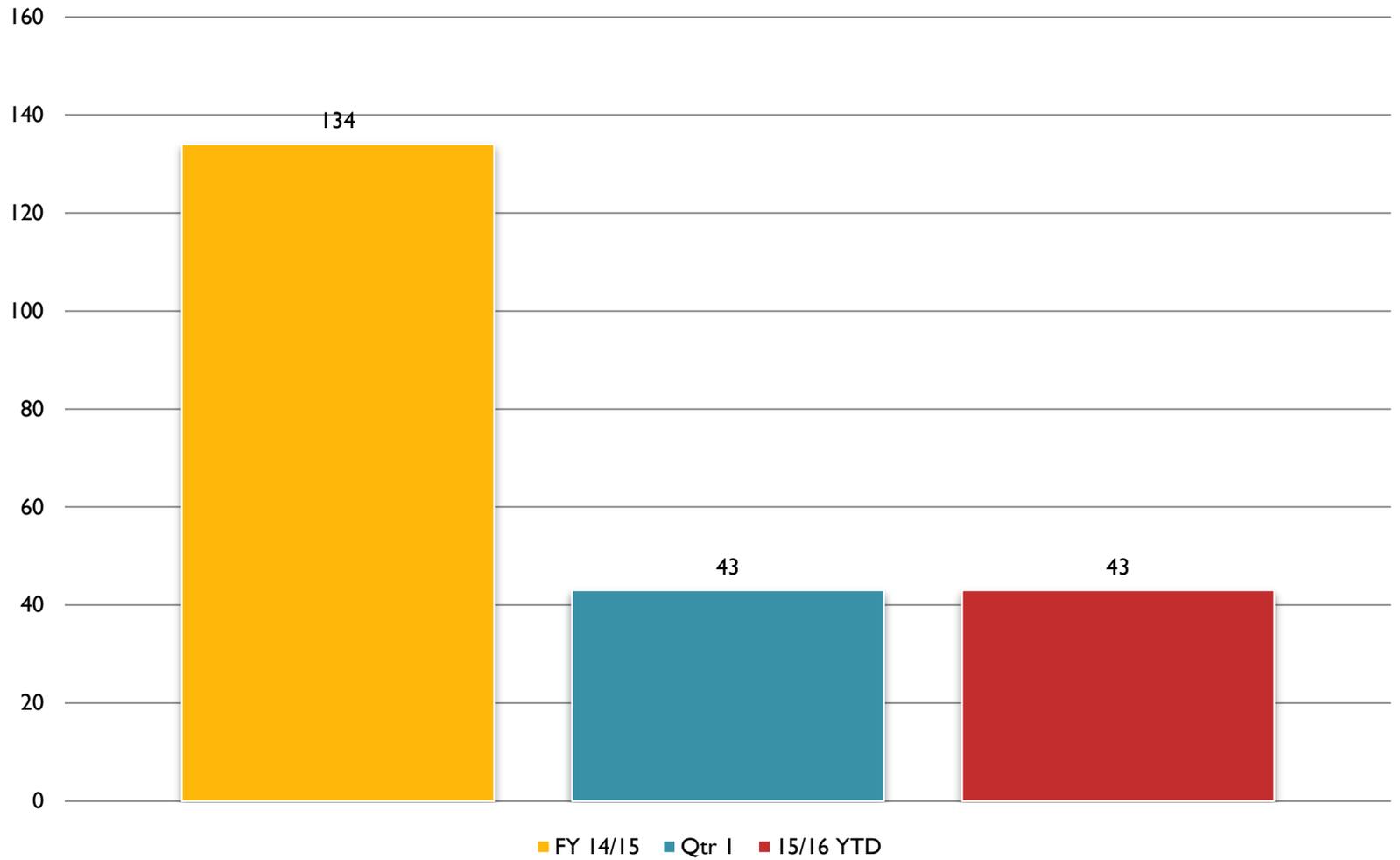
# Public Meetings Held



## Public Meetings: Last Four Fiscal Years



# Public Notices Sent

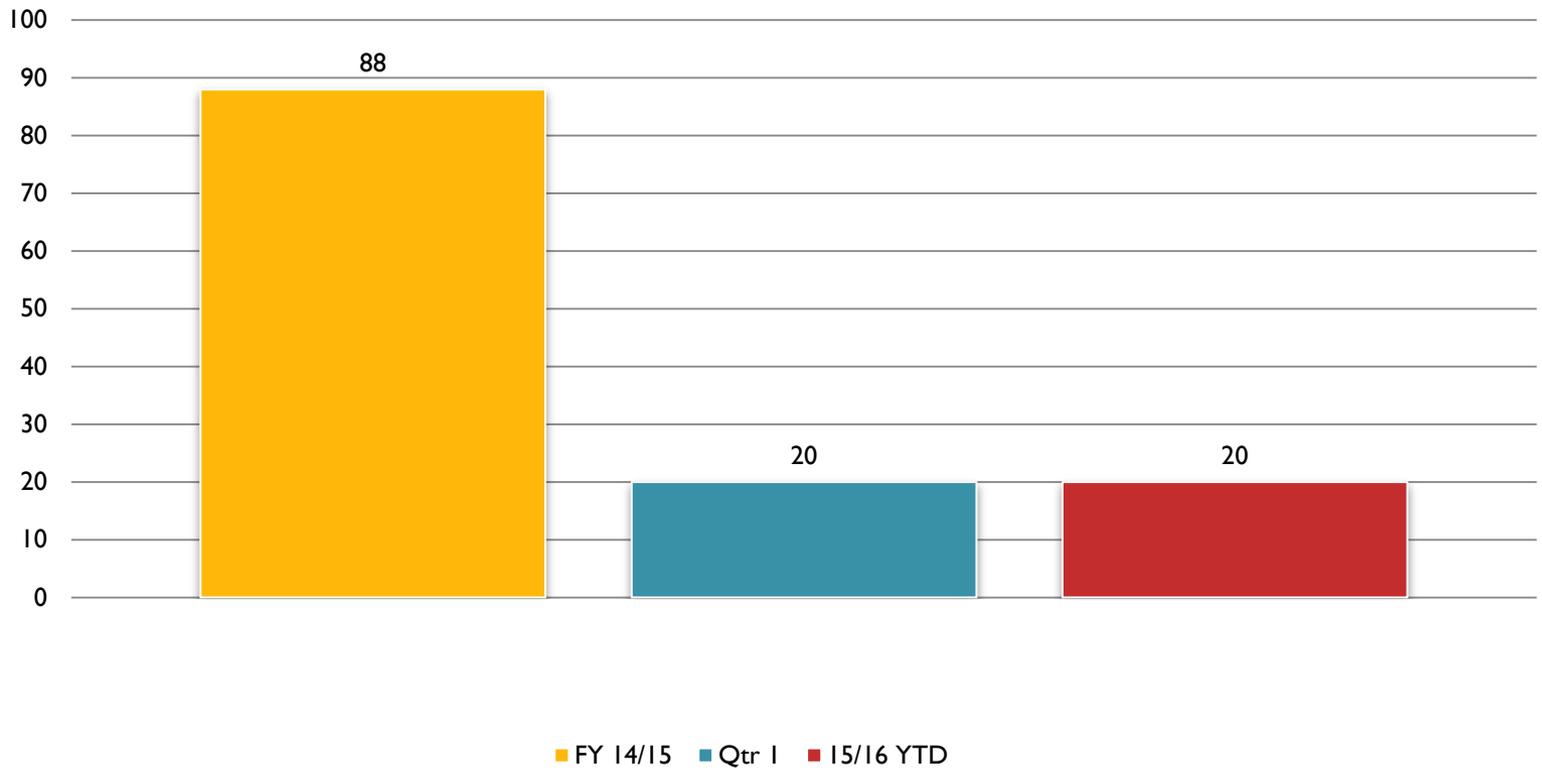


## Public Notices: Last Four Fiscal Years

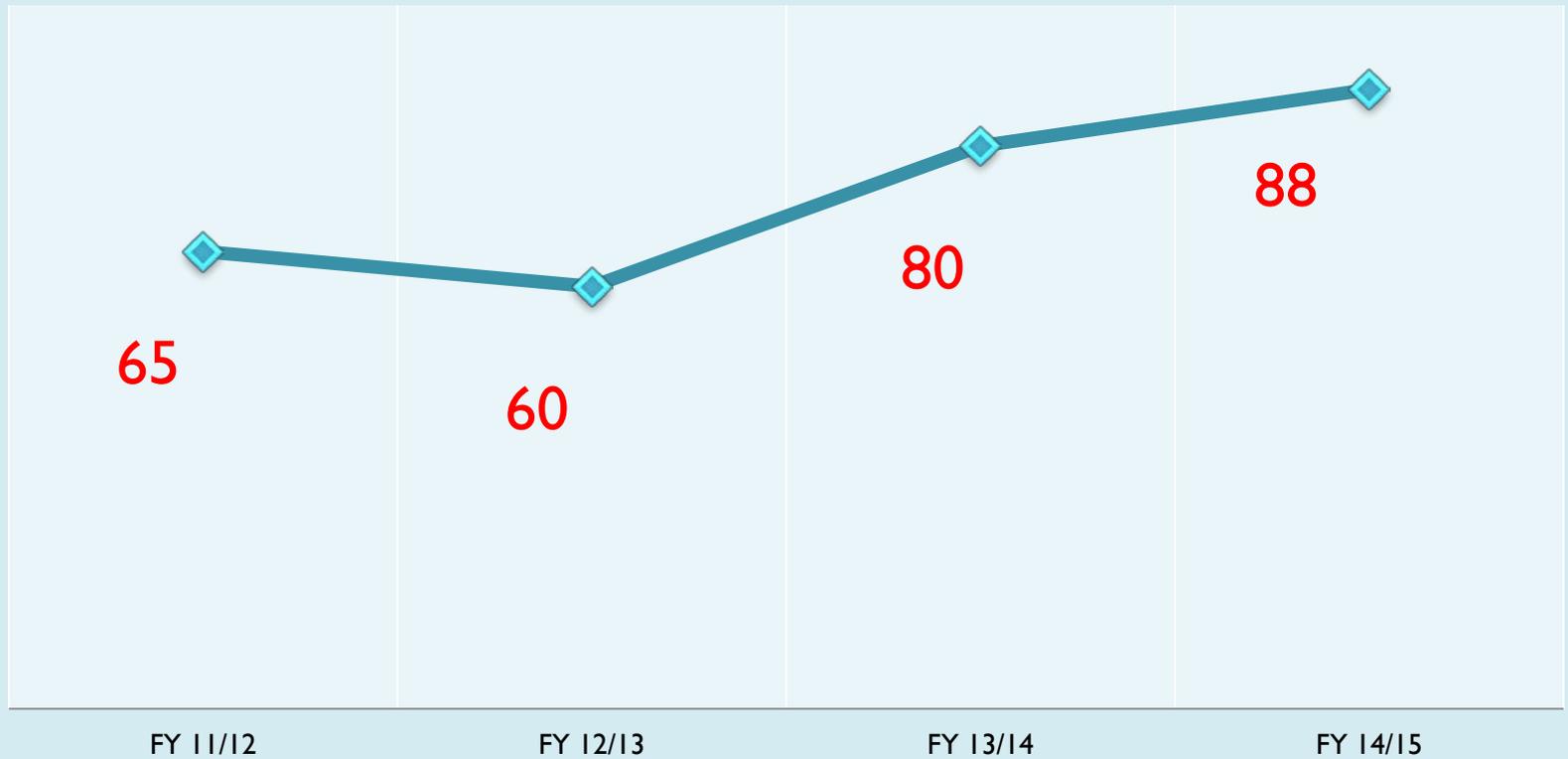


## Plans, Assessments, Surveys

Includes Public Participation Plans created, Community Assessments & Profiles developed, Community Surveys taken

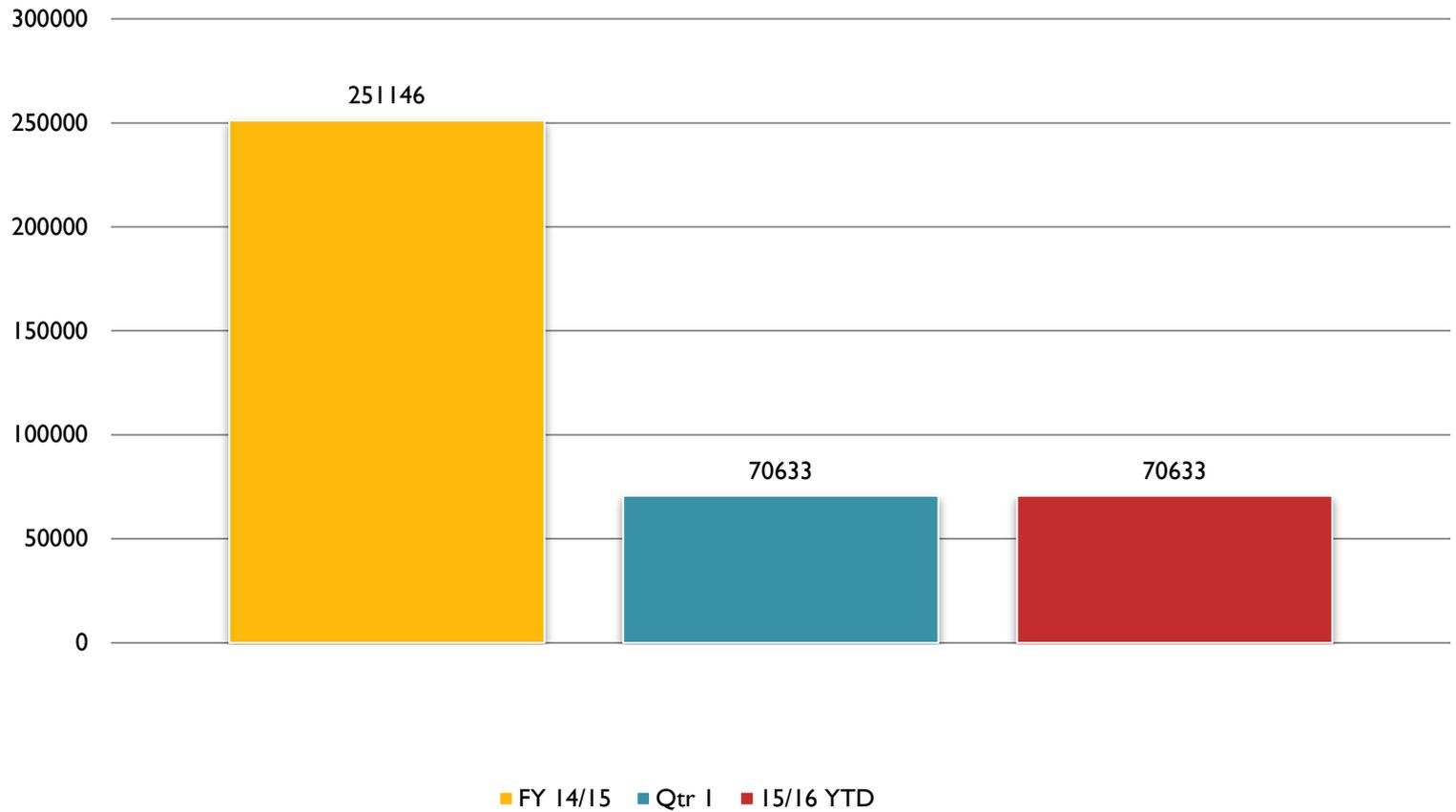


## Assessments: Last Four Fiscal Years



# Community Members Reached

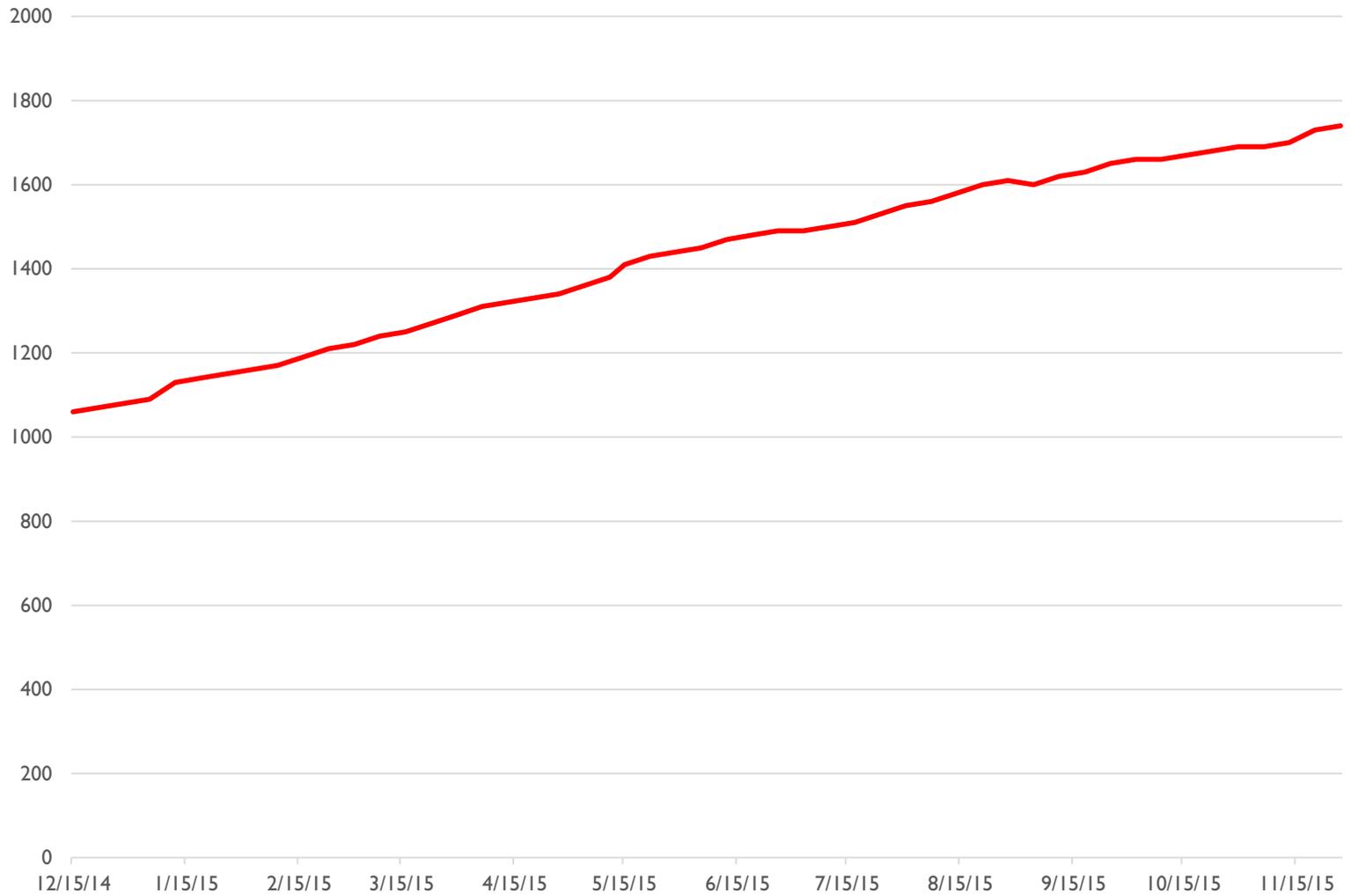
(ESTIMATED)



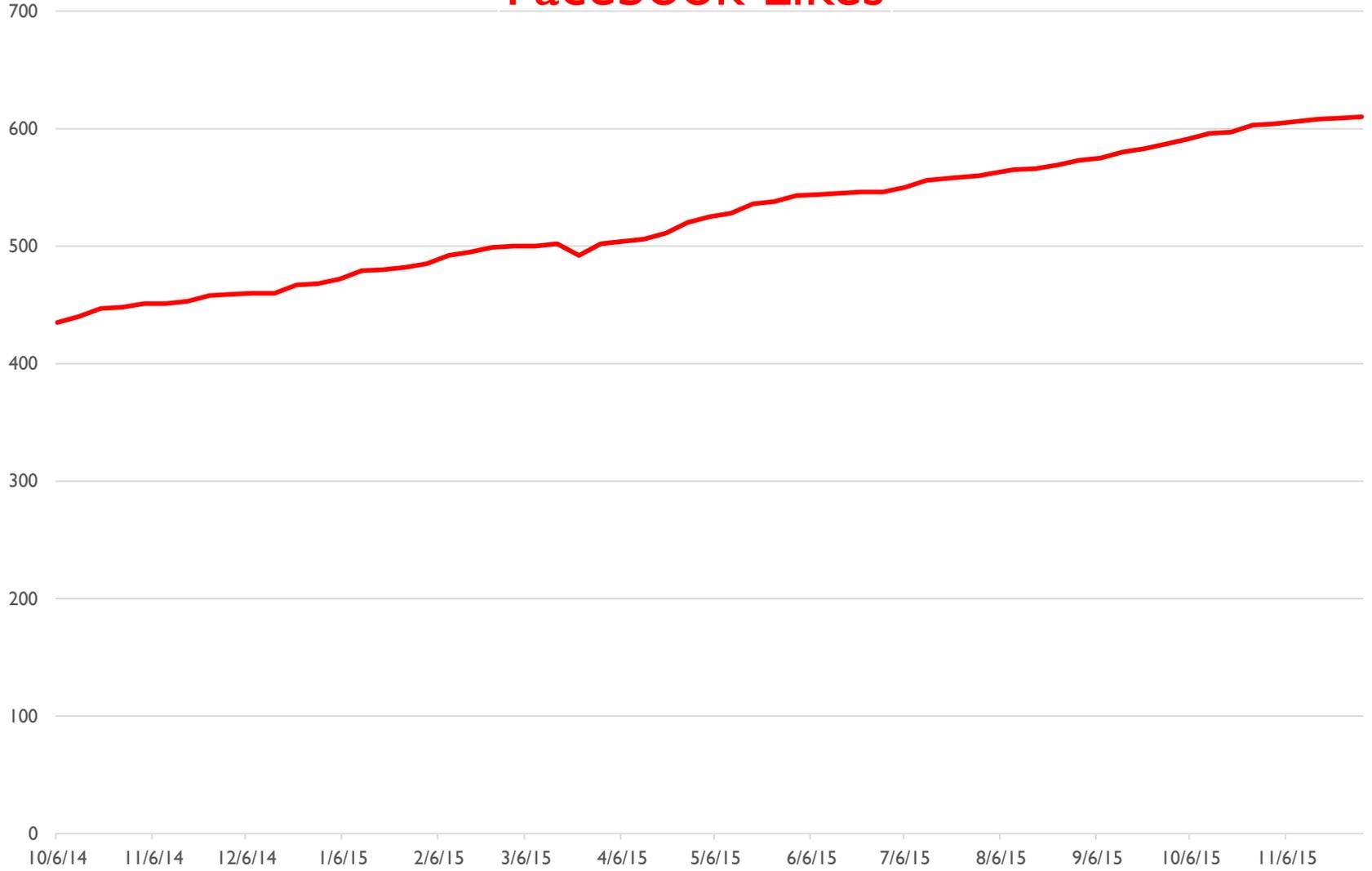
## Community Reach: Last Four Fiscal Years



# Twitter Followers



# Facebook Likes



# Public Participation Modernization



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# Program Reviews

- CPS HR Consulting/March 2014:
  - Changes to mailing system
  - Uniform use of initial project scoping meetings
  - Develop best practices guide
  - Enhance internal communications
  - Training on best practices



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# Program Reviews

- CPS also identified need for:
  - Process changes
  - Guidance updates
  - New tools
  - Changes to assignment process
  - Early public involvement



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Cal/EPA

# Program Reviews

- Public Participation Improvement Work Plan (Fixing the Foundation) June 2014:
  - An engagement strategy for impacted communities that aligns with program initiatives and community needs
  - Updated guidance documents using a public process
  - Better integration of public participation into the technical programs



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# Program Reviews

- Internal Program Review
  - Lack of trust
  - Need to enhance responsiveness to communities
  - More understandable outreach documents
  - Better internal coordination and communication
  - Earlier public involvement



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# Stakeholder Meetings Fall/2014

- Lack of trust
- Need to change the basic model of community involvement
- Community must set the agenda
- Better understanding of a community
- Partner with communities
- Use facilitative dialogues
- More multi-lingual information
- Use of social media
- Bring all agencies together
- Ineffectiveness of public outreach to create better decisions

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# Stakeholder Meetings Fall/2014

- Need for DTSC to listen
- Need for recognition of cumulative impacts from multiple sites
- Higher level of community involvement
- Institutional barriers within DTSC
- Follow the law
- Better use of advisory groups
- Changes to statute



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# Workplan for Modernization

## Fall 2014

- Goals:
  - Create flexible process that better meets the needs of individual communities
  - Provide for quick and easy access to information.
  - Provide early public involvement
  - Establish on going and more regional relationships with communities
  - Update PP toolbox:
    - Community assessment
    - Community partnerships
    - Use of new technologies
    - Advisory groups



# Outreach

- UCD stakeholder interviews
- List of recommendations within scope of work (January 2016)



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Cal/EPA

# Next Steps (Early 2016)

- Focus groups
- Specific set of recommendations
- Prioritization
- Pilot projects
- Training
- Best practices
- Metrics



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# Key goals for change

- Community assessment improvements
- Earlier public involvement
- Utilize community networks
- Use of electronic communications



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Cal/EPA

# Changes Underway/Complete

- Enhanced community assessment
- Community partnerships
- Community networking
- CalEnviroScreen
- Web site
- E-lists
- Independent technical advisor
- Permitting process
- Mailing list pilot projects
- Training

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# Performance Metrics

- Current:
  - Public meetings
  - Public notices
  - Number of community assessments
  - Reach of the program
  - Social media:
    - Twitter followers
    - Facebook likes
- To be developed (IRP input requested):
  - Measures of timeliness of initial public engagement in decisions
  - Measures of identifying and using community-specific modes of engagement
  - Measures of effectiveness of engagement





# Cost Recovery

prepared for the

## Independent Review Panel

December 8, 2015

Terri Hardy, Special Assistant Program Review



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CaI/EPA

# Cost Recovery Reform

1. Recent Cost Recovery History
2. Challenges to Cost Recovery
3. Status of our Cost Recovery Backlog
4. Compliance with the State Auditor's Recommendations
5. Mechanisms and Metrics for Ongoing Success



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# Cost Recovery History

- DTSC spent more than \$1.9 billion between 1987 and 2013 to clean up contamination.
- DTSC operates on a “Polluter Pays” principle.
- Over 90% of cleanup costs were recovered or otherwise assigned and accounted for.
- As part of the DTSC’s Fixing the Foundation effort, in May 2013, DTSC publically disclosed that \$184.5 million of response costs remained unresolved.



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# Cost Recovery History

- In November 2013, DTSC issued sweeping cost recovery procedural changes.
- In March 2014, DTSC trained hundreds of employees on new cost recovery guidance.
- In FY 14/15, the Legislature approved fourteen limited-term positions devoted to cost recovery (positions expire on June 30, 2016).
- In August 2014, the State Auditor issued findings and recommendations for DTSC's cost recovery program.



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# Historical Challenges to Effective Cost Recovery

- No standardized collection process
- Technical, infrastructure limitations
- Staff communication lacking
- Technical staff tasked with billing/collection



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# Ongoing and Structural Challenges

- Ongoing - Identifying who should pay “Responsible Parties”
- Ongoing - Statute of Limitations
- Structural – Staffing
- Structural – Data Systems



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## Cost Recovery Backlog Progress

**\$1.9 Billion**

spent on cleanups between  
1987 – 2013

**\$194 million**  
or 10% unresolved

Reduced \$71.5 million  
cash collected (\$6.6 million),  
orphans, data correction,  
account reconciliation,  
and write offs

**\$65.4 million**  
litigation and bankruptcy

**\$1 million**  
less than \$5k

**\$56.1 million –**  
remaining to be reduced

Updated 12/1/15

# State Auditor Recommendations

- The State Auditor made eleven recommendations.
  - Nine called for action by DTSC
  - Two called for action by the Legislature.



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# State Auditor Recommendations

- Fully implemented recommendations:
  - ☑ Created a tracking system to ensure statutes of limitations are not missed.
  - ☑ Established settlement tracking procedures.
  - ☑ Standardized how DTSC conducts searches to identify and invoice “responsible parties.”
  - ☑ Developed procedures to ensure collection letters are sent when warranted.



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# State Auditor Recommendations

- Fully implemented recommendations:
  - ☑ Issued a statutory lien policy.
  - ☑ Drafted procedures for tracking payments associated with the Cleanup Loans and Environmental Assistance for Neighborhoods (CLEAN) loan program
  - ☑ Reconciled federal grant payments.



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# State Auditor Recommendations

- DTSC has partially implemented the remaining two recommendations:
  - ❑ Conduct a one-time write off of some backlog costs of \$5,000 or less under provisions of AB 274 (to be completed by March 31, 2016).
  - ❑ Ensuring the accuracy of cost recovery data (to be complete by June 30, 2016).



# Keys to Future Success

1. Use Dashboard tool
2. Continue to integrate DTSC procedures, desk manuals and flowcharts that clarify work and promote consistency
3. Continue prescribed interdepartmental cost recovery meetings to penetrate silos
4. Gain approval of new billing system (structural challenge)
5. Ensure adequate multi-disciplinary staffing to sustain an effective cost recovery program (structural challenge)



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# Current Cost Recovery Metrics

- Number of sites resolved
- Number of cases in litigation/bankruptcy proceedings
- Number of sites valued less than \$5k & number of those written off
- Dollars resolved
- Document throughput



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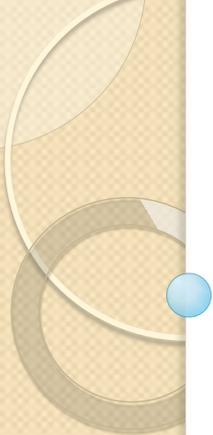
# Potential Metrics for a New Normal

- Target levels of unbilled and billed but uncollected costs: metric = number of cases in each category
- Optimal times for administrative processes and decisions/actions: metric = time elapsed
  - No viable cost recovery mechanisms
  - Viable cost recovery mechanisms
- Look forward to working with the Panel.



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# Budget Overview

prepared for the

## Independent Review Panel

December 8, 2015

Barbara Lee, Director



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# DTSC Funding History in Real Dollars

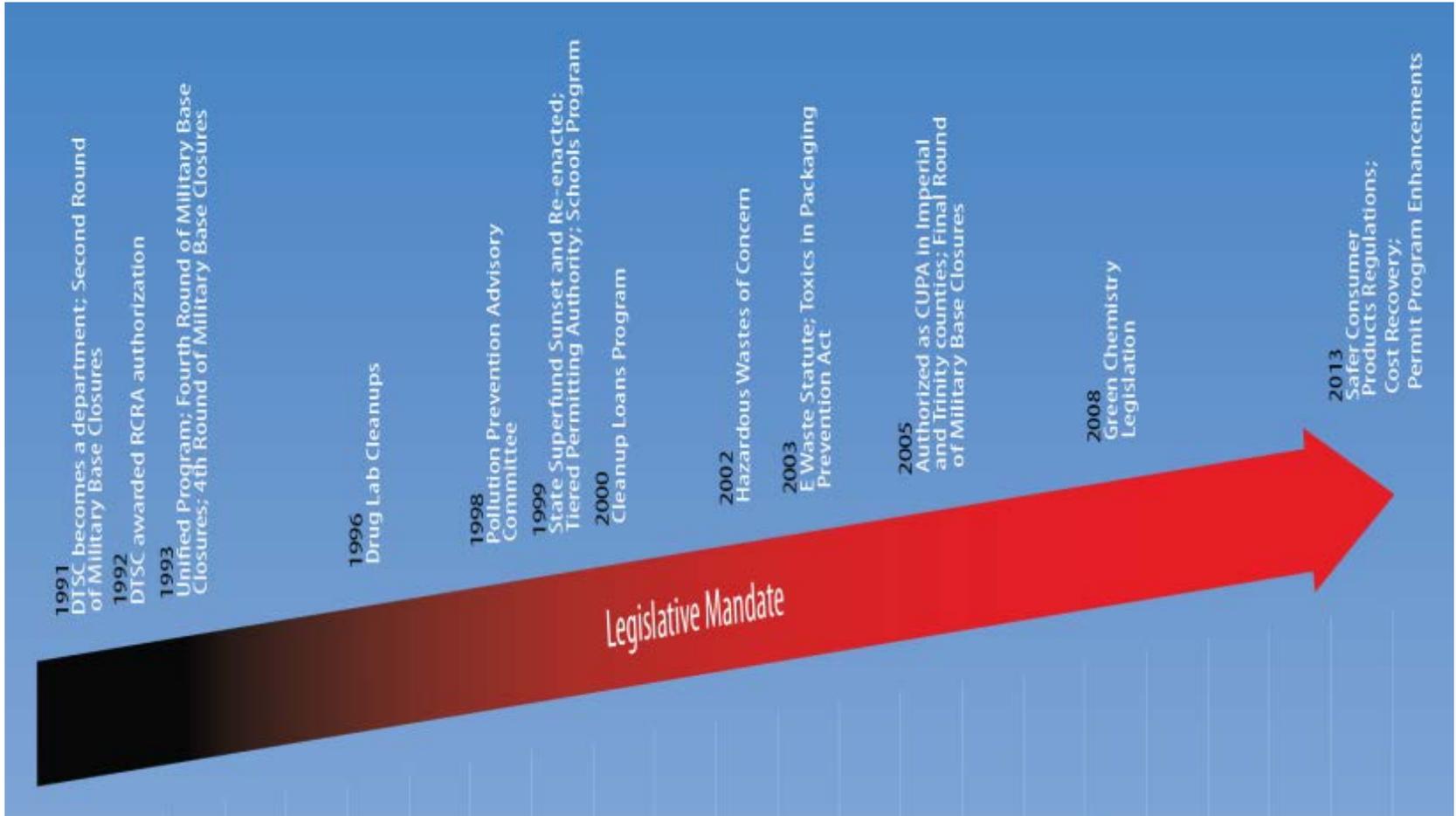
## DTSC Funding History in Real Dollars



\* 2000-2007 Does not include Clean Loan Program (CSM), Alamo Site Tr (SOM), and Reappropriation for Strongflow (SOM)  
\*\* 2001-2002 Does not include EPA settlement for Strongflow & Caslake (S115,000M) and Bond Bailout Payment (2,2M)



# DTSC Legislative Mandate

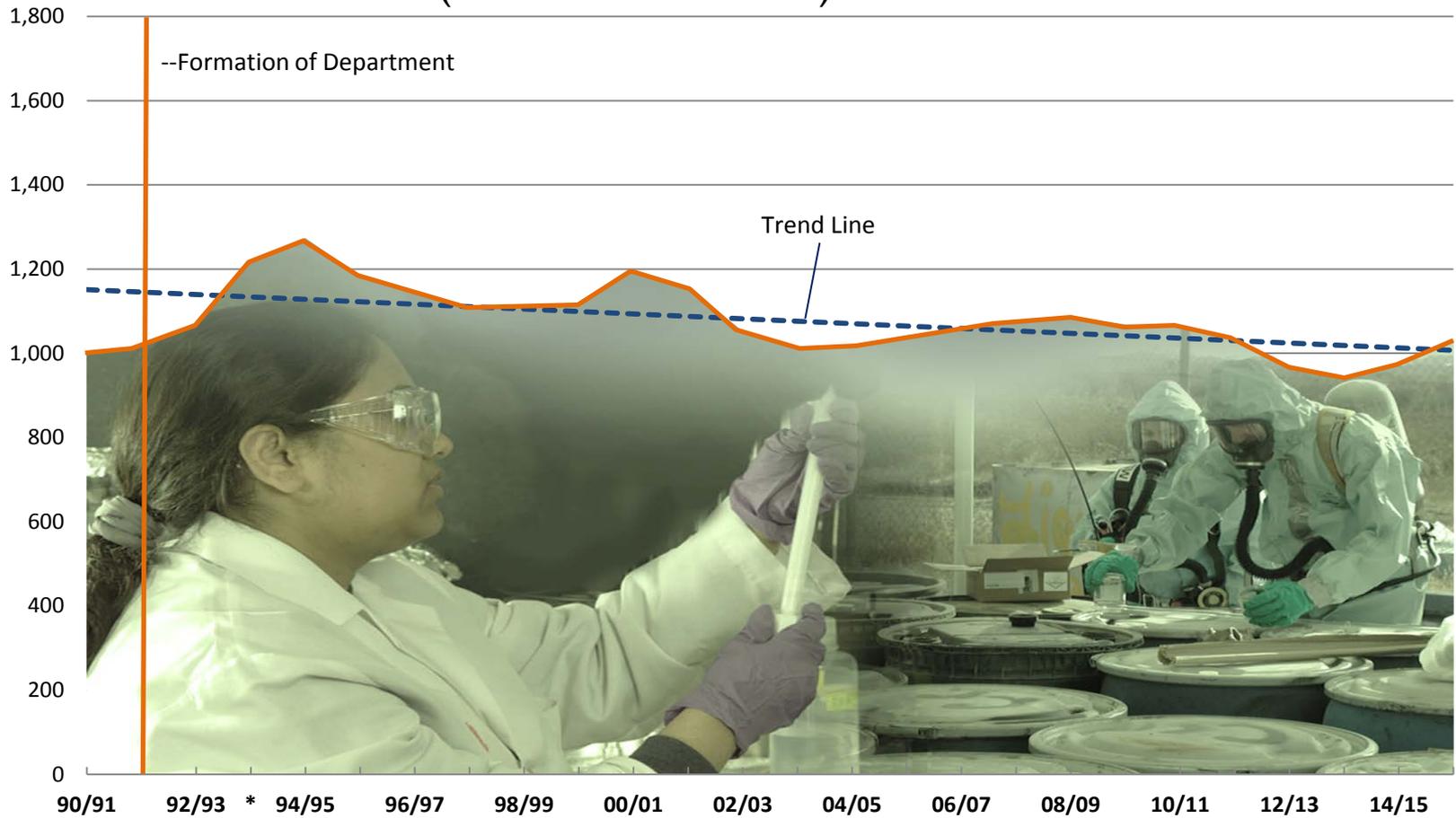


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# DTSC Staff Levels Flat Over Time

(Authorized Positions)



\* In FY 1993/94 the Hazardous Materials Laboratory was transferred from the Department of Health Services to DTSC (82.5 positions)

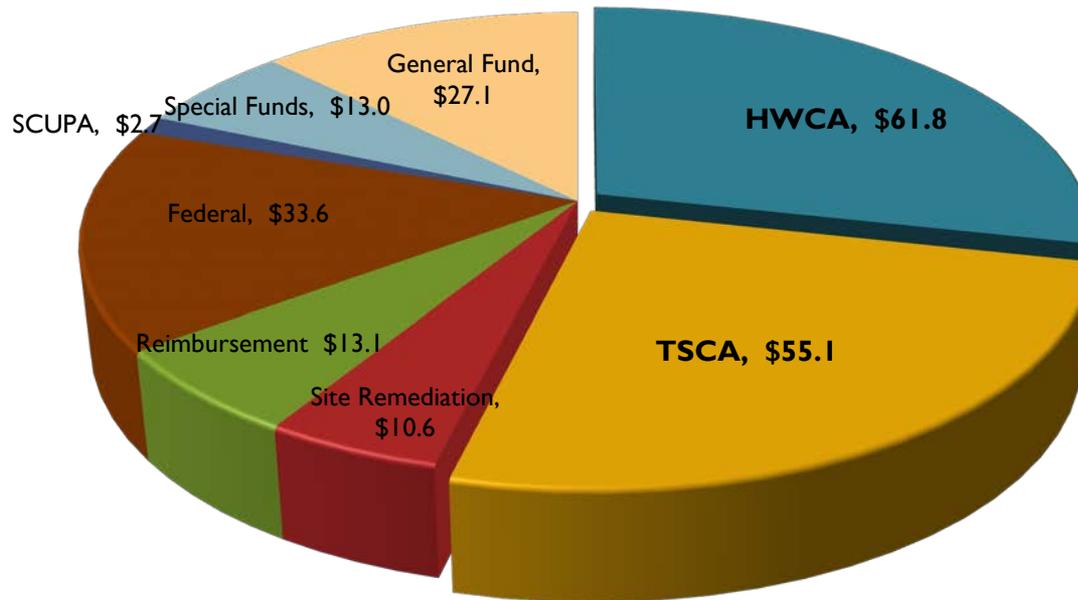
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# DTSC Funding Sources

## DTSC Budget by Fund

Total = \$216 million



*\*State Operations, excluding continuous appropriations, shown in millions of dollars*



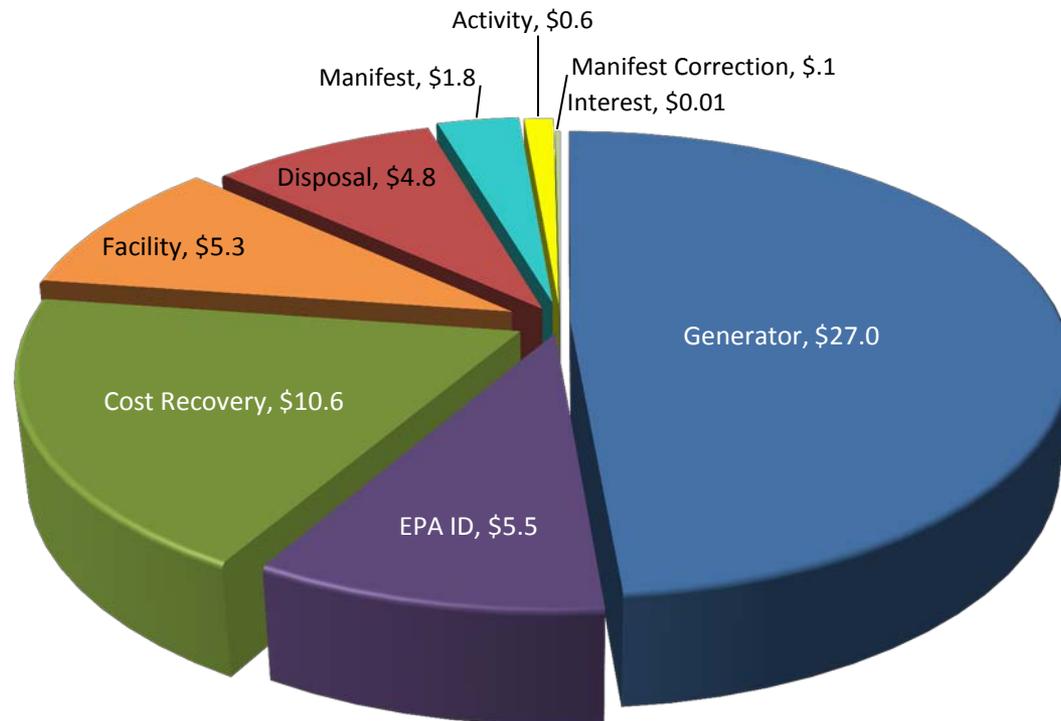
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# HWCA Revenues by Source

**FY 2014-15 Revenue: \$55.5 million**

*(Figures in millions of dollars)*



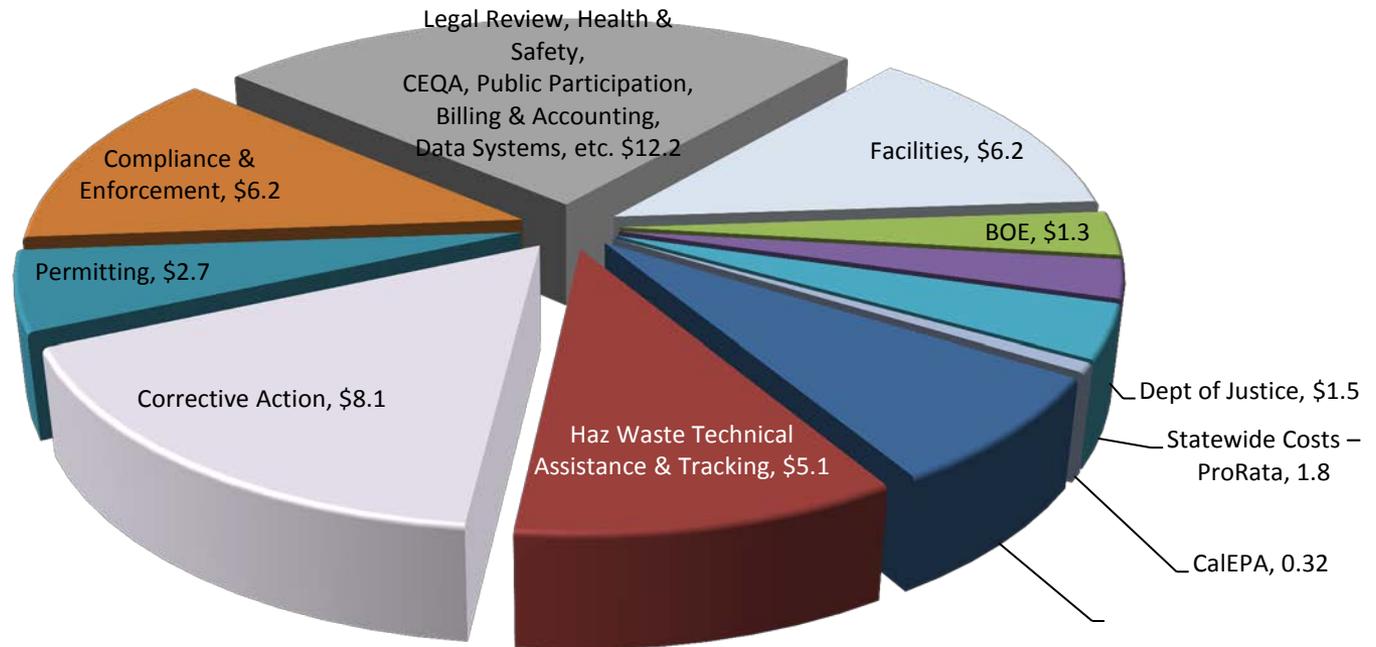
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# HWCA: Activities Funded

**FY 2014-15**

*(Figures in millions of dollars)*



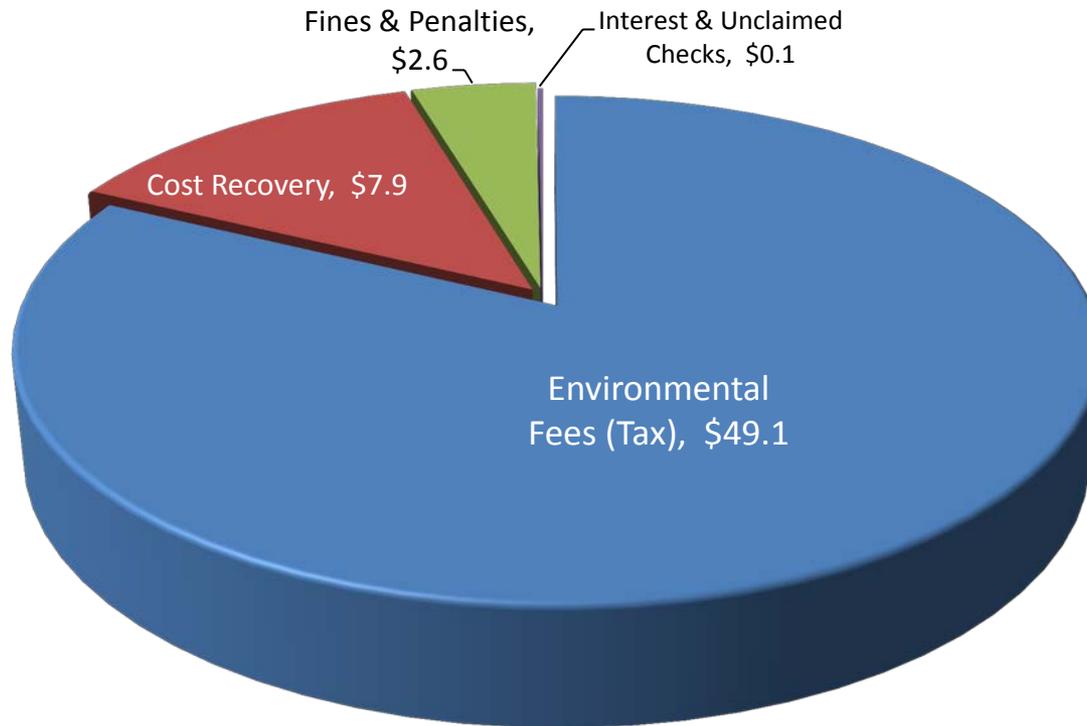
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# TSCA Revenues by Source

FY 2014-15

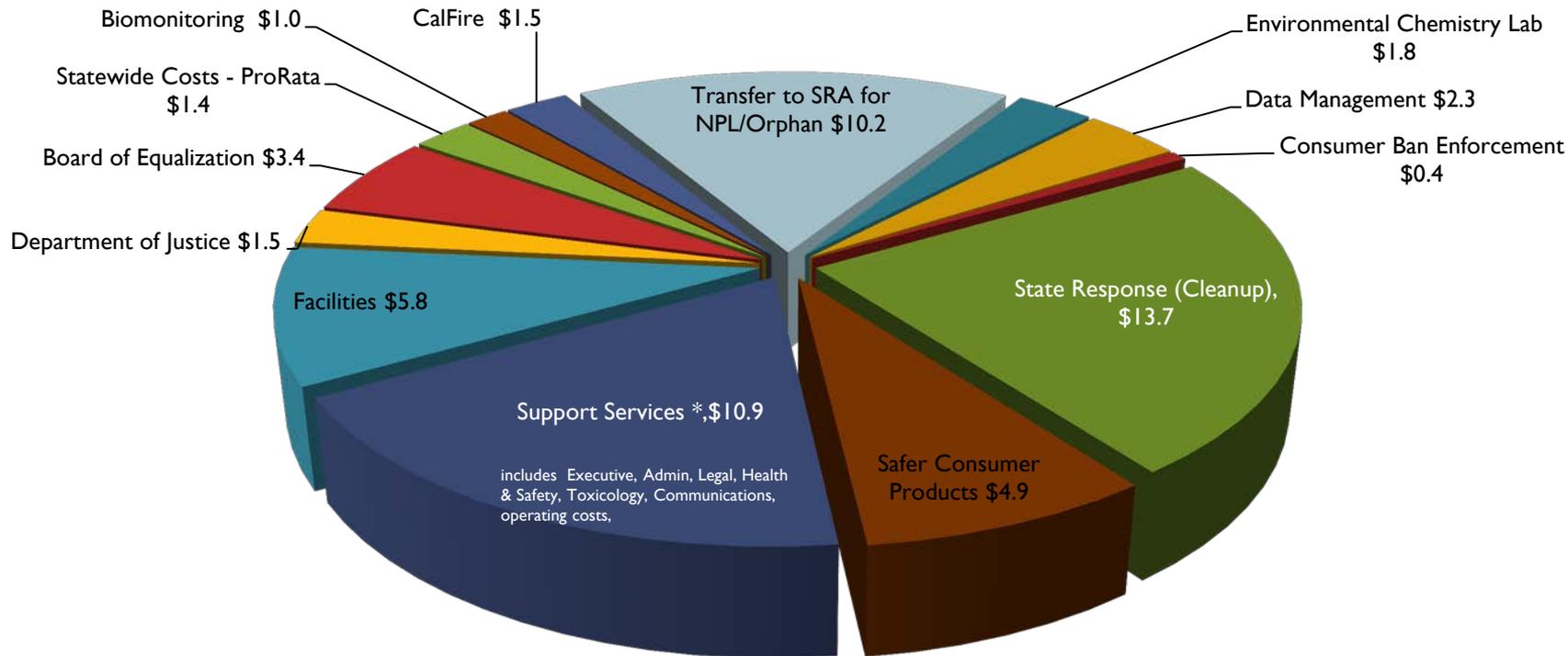
*(Figures in millions of dollars)*



# TSCA Activities Funded

FY 2014-15

(Figures in millions of dollars)



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# Site Remediation Account

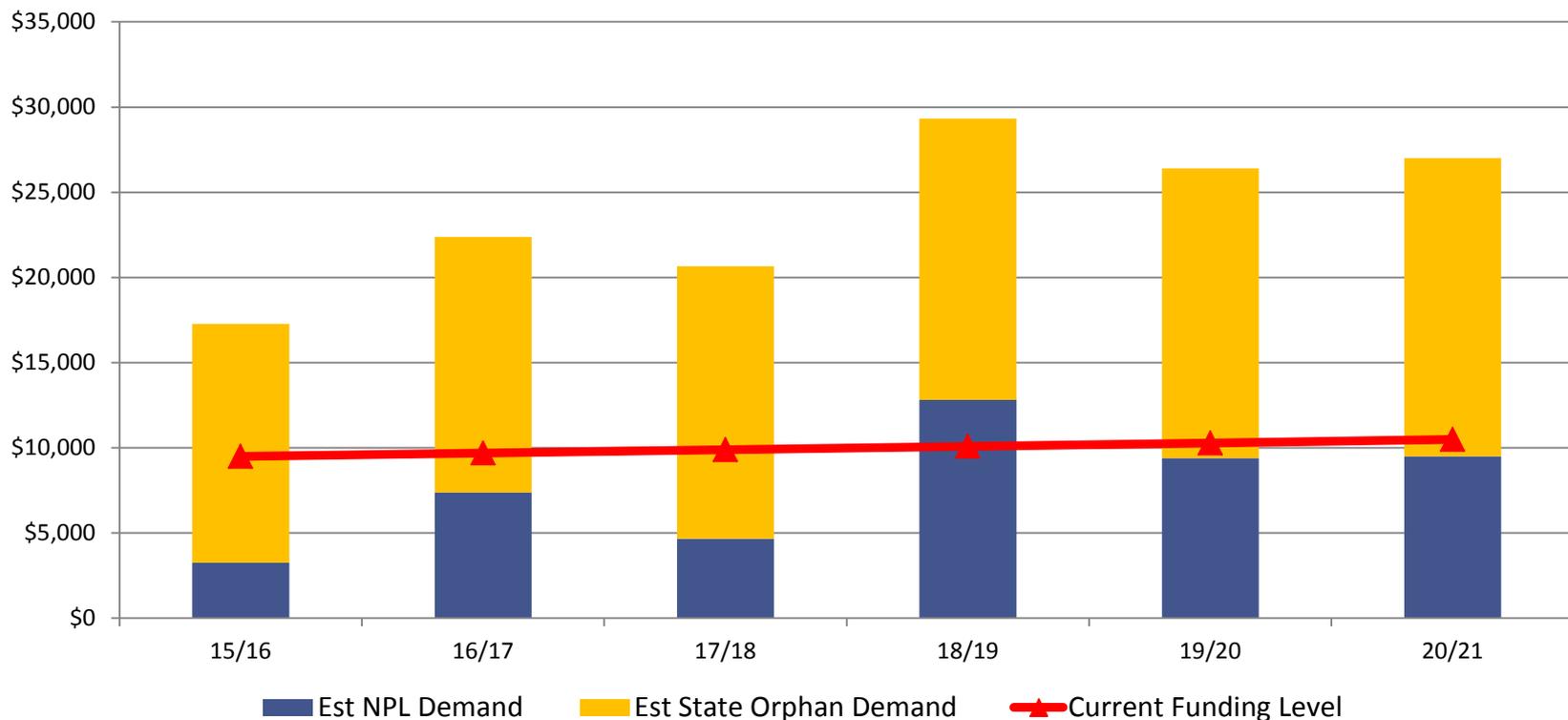
- State 10% funding match **required** for federal cleanup at contaminated sites on the construction of the remedy National Priorities List (NPL, a.k.a Superfund)
- The State pays 100% during operation and maintenance.
- Cleanup of contaminated sites with no responsible party that are not on the NPL.
- Funding for cleanup at contaminated sites that are not on the NPL during cost recovery activities (recovered costs are returned to TSCA).

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# Federal Superfund Demands Compete with State Cleanups\*

NPL / Orphan Demand - Stable Funding Level  
(\$ in thousands)



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\*Excludes legacy landfills.

# Orphan Sites

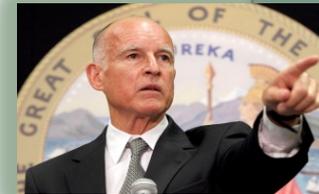
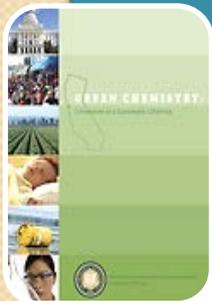
- US EPA estimates:
  - 450,000 contaminated sites nationwide
  - Between 96,000 and 212,000 contaminated sites in California
- DTSC has identified approximately 9,800 contaminated sites statewide
- Many of these sites have already impacted groundwater designated for crops or drinking, or are migrating towards priority groundwater reserves
- These sites often also release toxic vapors from underground contamination into buildings where people work and live, or children study and play
- At most of these sites the responsible parties no longer exist, or have no ability to pay for the cleanup



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# California's Approach to Safer Consumer Products 2007-2015

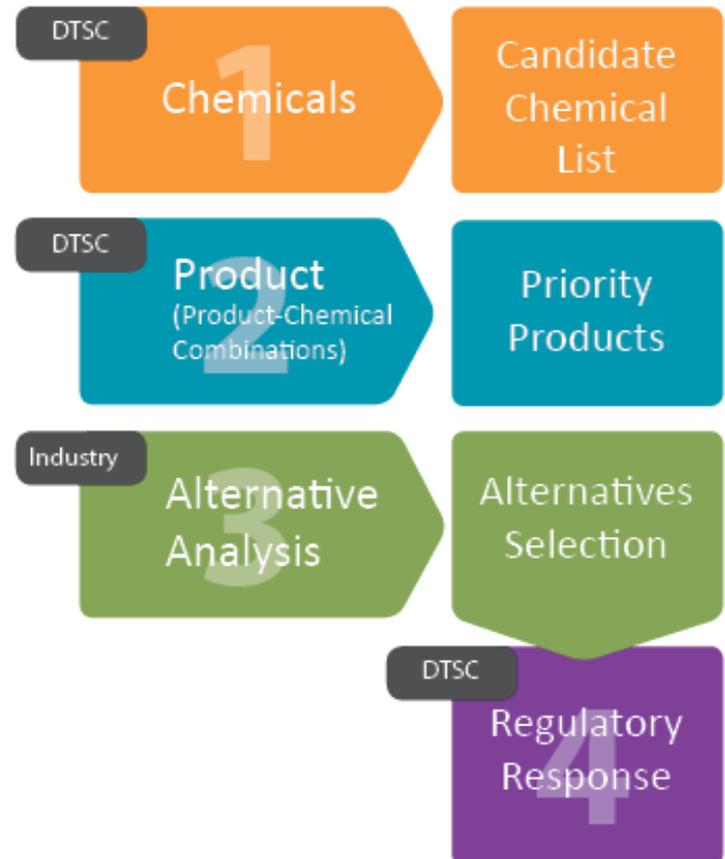


## Hazard Reduction vs. Risk Management

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# How it Works: The SCP Regulations



# SCP Program Build-out

- Program is in its infancy
  - Framework regulations in place
  - Candidate chemicals identified
  - Three-year work plan approved
  - Stage I Alternatives Analysis Guidance approved
- Near-term development
  - Formally adopt initial Priority Products
  - Identify next proposed Priority Products
  - Stage II Alternatives Analysis Guidance
- Longer-term development & implementation
  - Review Alternative Analyses for Priority Products
  - Develop and implement regulatory responses
- Program Maturity
  - Identify Priority Products
  - Review Alternatives Analyses
  - Adopt Regulatory Responses

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