

Department of Toxic Substances Control
Cal/EPA Environmental Enforcement Report
2009

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DEPARTMENT OF TOXIC SUBSTANCES CONTROL**I. EXECUTIVE SUMMARY**

The Department of Toxic Substances Control (DTSC) is responsible for restoring the safety and health of communities by: 1) cleaning up sites contaminated by toxic substances from the legacy of California's industrial past; 2) ensuring that hazardous wastes generated in California's present industrial economy are managed safely so they do not pose a threat to people or the environment; and 3) preventing pollution to ensure a safe and healthy future for California. These responsibilities are implemented by four core DTSC programs: the Brownfields and Environmental Restoration Program (Cleanup Program), the Enforcement and Emergency Response Program, the Pollution Prevention and Green Technology Program, and the Environmental Chemistry Laboratory.

The mission of the Enforcement and Emergency Response Program (Enforcement Program) is to promote a healthier environment for all Californians through fair, consistent, and timely enforcement. The Enforcement Program is comprised of multiple program components that conduct inspections and take enforcement actions against facilities where DTSC has issued permits, against transporters, generators of hazardous waste, and against electronic waste handlers. The Enforcement Program also leads Environmental Justice activities, implements the Toxics in Consumer Product Laws, provides compliance assistance, has the only sworn peace officer criminal investigators in the California Environmental Protection Agency (Cal/EPA), and conducts Certified Unified Program Agency (CUPA) oversight. A CUPA assumes authority and responsibility for the administration and enforcement of the unified hazardous waste and hazardous materials management regulatory program established by Chapter 6.11 of the California Health and Safety Code (section 25404, et seq.). In addition to these enforcement activities, the Enforcement Program is responsible for various emergency response activities, such as certain emergency off-highway and illegal drug lab clean-ups.

A. Major Program Highlights for 2009

- 377 core work inspections
- 210 inspections by DTSC as the CUPA in Imperial and Trinity Counties
- 2084 Mexican Border truck stops
- 57 complaint investigations closed
- 70 enforcement cases settled
- \$1,988,170 total settlement dollars
- Approximately \$1.9 billion of financial assurance funds managed
- 29 training classes provided resulting in more than 350 CUPA inspectors, governmental officials, and industry personnel trained
- 258 criminal cases initiated
- 192 criminal cases completed
- one arrest (eight arrest-assists with the State Contractor's Licensing Board)

B. What the Reported Data Tell Us

The data collected in the Enforcement Program's various data bases allows DTSC to track all of its inspections, investigations, and enforcement actions. These data include the numbers and types of inspections, what portions of the legal requirements were violated, the compliance rate for various sectors (for example: refineries, transporters, and electronic waste handlers), numbers and types of enforcement actions, and enforcement settlement amounts.

C. How the Department Will Use This Information

The Enforcement Program has been using the data for the development of performance measures. The data are also used to make resource allocation decisions based on the compliance rates of various sectors.

II. DEPARTMENT OF TOXIC SUBSTANCES CONTROL'S ENFORCEMENT PROGRAM

A. Overview of the Enforcement and Emergency Response Program

The universe of businesses in California subject to hazardous waste requirements easily exceeds 120,000 entities. Thus, the enforcement of hazardous waste requirements in this universe is split among three levels of government: federal, state, and local. The United States Environmental Protection Agency (US EPA) conducts a limited number of generator and permitted facility inspections, and takes enforcement where appropriate. DTSC's Enforcement Program is responsible for the inspection and enforcement of permitted hazardous waste facilities, hazardous waste generators and on-site treaters, transportable treatment units, transporters, and electronic waste recyclers, processors and collectors. The CUPAs conduct most of the inspections and enforcement actions related to hazardous waste generators and on-site treatment units as provided in SB 1082 (1993). All CUPAs are local entities except for Imperial and Trinity Counties. DTSC is the designated CUPA in those two counties.

In addition to enforcing hazardous waste requirements, the Enforcement Program is responsible for enforcing the State's Toxics in Packaging Prevention Act and the Lead in Jewelry Act - laws enacted to protect consumers from toxics in products.

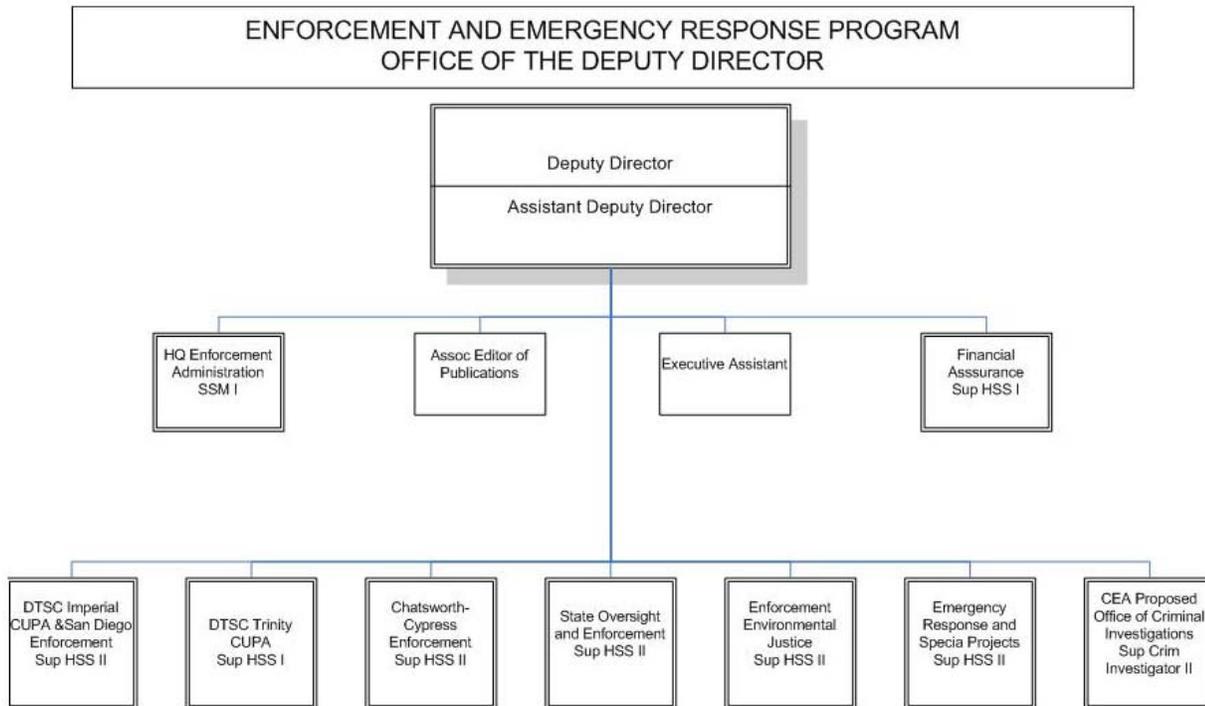
The Enforcement Program implements its responsibilities through ten program components: Facility, Generator, and Transporter Program; California-Mexico Border 2012 Program; Environmental Justice Initiative; Financial Assurance Program; Electronic Waste Program; Compliance Assistance Team; DTSC as the CUPA in Imperial and Trinity Counties; CUPA-State Oversight Program; Office of Criminal Investigations; and Toxics in Consumer Products Program. These components are discussed in section B below.

In addition to the work of the Compliance Assistance Team, compliance assistance is provided by many of the other Enforcement Program components in the form of developing and distributing educational materials. Specific compliance assistance activities are discussed in each component's portion of this report found in section B. The Enforcement Program takes both a proactive as well as a reactive approach to the enforcement of hazardous waste and toxics in consumer product requirements. The proactive approach is applied to the permitted facilities, transportable treatment units, transporters, generators, and electronic waste recyclers and collectors. The regulations and requirements for these entities have been designed to prevent the release of hazardous waste into the environment, and to ensure the safe handling of this waste by employees of hazardous waste handlers. This universe of hazardous waste handlers is regularly inspected to ensure they are in compliance with the applicable requirements. Entities subject to the toxics in consumer product requirements are also inspected on a scheduled basis.

The reactive approach is applied through the investigation of specific public health or environmental complaints received from members of the public or other government agencies concerning any entity thought to be violating hazardous waste or toxics in consumer product laws and regulations. Complaints may be received by telephone, mail, e-mail, or through the Cal/EPA complaint tracking system that allows Internet users to file an environmental complaint online. All inspections or criminal investigations are conducted on an unannounced basis.

Additionally, the DTSC Environmental Justice Initiative uniquely promotes proactive enforcement through work with affected community organizations whose members identify toxic harm in their individual communities. Community members actively participate in targeting polluters in their neighborhoods and proactively establish investigation priorities with DTSC Enforcement Program staff. Potential violators identified may become the subject of public health and environmental complaints that are then resolved through investigation.

An organizational chart of the Enforcement Program to the Performance Manager level (second level supervisor) is located on the next page.



DTSC’s Enforcement Program has 156.5 positions of which 134.5 are dedicated to enforcement work and 22 are in Emergency Response. Of the 134.5 in enforcement, 101 positions perform inspections/investigations. The Enforcement Program was budgeted at \$13,446,976 for calendar year 2009. The funding came from the following sources:

- Hazardous Waste Control Account (HWCA)
- Electronic Waste Recovery and Recycling Account
- US EPA Resource Conservation and Recovery Act grant (RCRA grant)
- Cal/EPA Unified Program Account
- Used Oil Account
- State as a CUPA Account (State CUPA Account)
- General Fund

Many of the Enforcement Program staff conduct activities in more than one program area described in section B below. Several of the program components are funded from more than one revenue source. The specific details as to staffing and funding are explained under each component.

The work of the Enforcement Program could not be successful without the close cooperation of DTSC's Environmental Chemistry Laboratory and Office of Legal Affairs. The Environmental Chemistry Laboratory analyzes the samples collected by the Enforcement Program staff as evidence of violations. The Office of Legal Affairs attorneys work with Enforcement Program staff to pursue administrative enforcement cases or to refer civil cases to the Office of the Attorney General. The Office of Criminal Investigations within the Enforcement Program refers most criminal cases to District Attorneys. However, in one instance, DTSC's Statewide Oversight and Enforcement Branch, through the Office of Legal Affairs, made a direct criminal referral to a District Attorney.

DTSC has nine offices and two branches of the Environmental Chemistry Laboratory (ECL) throughout California. Enforcement staff are located in all but the ECL offices.

The public and interested parties can view the last three years of enforcement actions taken by DTSC on DTSC's website <http://www.dtsc.ca.gov/EnforcementOrders.cfm>

Environmental compliance information for air, water, and waste can be found at US EPA's website entitled Environmental Compliance History Online (ECHO). <http://www.epa-echo.gov/echo/>

A statewide online complaint system was created so that the public and other interested parties can file an environmental complaint with DTSC regarding potential illegal hazardous waste activity. Complaints can be filed online at DTSC's website http://www.dtsc.ca.gov/database/CalEPA_Complaint/Index.cfm, *Alternatively*, complaint calls can also be made to the WASTE ALERT HOTLINE, a statewide toll free complaint number 1-800-698-6942.

DTSC maintains a public Internet web site which provides access to an extensive range of fact sheets, publications, forms, and enforcement program information as well as the pertinent laws and regulations. General publications information may be accessed through the following web link: <http://www.dtsc.ca.gov/PublicationsForms/index.cfm>. DTSC maintains a network of Regulatory Assistance Officers (RAOs) who are based in three regional offices in Sacramento, Cypress, and Chatsworth. The RAOs offer statewide public and industry assistance.

DTSC is currently updating its Strategic Plan for 2010-2015. The original plan became effective as of July 1, 2009 and is available for public review at http://www.dtsc.ca.gov/InformationResources/upload/ESP_REP_StrategicPlan.pdf

B. Enforcement Program Components

1) Permitted Facility, Generator, and Transporter Program

Description

California's Hazardous Waste Control Act (HWCA), passed in 1973, was the first law in the nation to regulate generators, transporters, and facilities that handle, treat, store or dispose of hazardous waste. RCRA, the federal law passed in 1976, was modeled after the HWCA.

RCRA requires that states be authorized to implement the RCRA program. DTSC is authorized by the federal government to implement RCRA in California. The California hazardous waste program goes beyond RCRA in that it is broader in scope (e.g. regulates additional waste streams and treatment types) and is more stringent (e.g. regulates certain waste chemicals to lower levels). California must follow the mandated RCRA minimum inspection frequencies for hazardous waste facilities subject to RCRA regulatory requirements. These frequencies are yearly for permitted federally-owned facilities or permitted facilities receiving offsite wastes from superfund cleanups, and biennially for all other permitted facilities. DTSC receives a grant from the US EPA to implement RCRA in California.

The Enforcement Program reports to US EPA on its grant commitments through three mechanisms: data submittals, written reports, and periodic meetings. Data concerning inspections and enforcement actions are collected in the Enforcement Program's ICE/EnviroStor data system and periodically uploaded to US EPA's RCRAInfo data system.

US EPA provides oversight for and evaluation of the authorized California program through several mechanisms. US EPA periodically accompanies Enforcement Program staff on inspections in order to evaluate their field capabilities. US EPA reviews two self-assessments provided by DTSC and responds in a formal report, both to a DTSC-prepared End-of-Year report as well as the periodic meetings discussed above. Every three years, US EPA conducts an extensive in-depth review of California's program through a process known as the State Review Framework. The next State Review Framework evaluation will take place in federal fiscal year 2011.

Facilities with a permit to handle, transport, treat, store, or dispose of hazardous materials/waste are subject to regulatory oversight by DTSC. They are periodically inspected to ensure compliance with the applicable laws and regulations. In addition to scheduled compliance inspections, DTSC enforcement work is also performed via focused initiatives, complaint investigations, monitoring, compliance assistance, and by quick response to emergency toxic material situations that arise around the State.

As noted in the chart below, California regulated on average 126 hazardous waste businesses with a permit from DTSC to treat, store, or dispose of hazardous waste in 2009. This universe includes facilities that are subject to the federal RCRA permitting standards as well as those subject to state permitting standards. Among these 126 facilities are three permitted landfill sites for the regulated, safe burial of off-site hazardous waste. DTSC and the US EPA, but not local agencies, can inspect these permitted facilities to ensure they are following their permit requirements.

HAZARDOUS WASTE BUSINESSES REGULATED BY DTSC

Facilities with a permit to treat, store or dispose of hazardous waste	126
Transportable Treatment Units (approximate number)	81
Hazardous Waste Transporters (approximate number)	982

(The above table does not reflect the hazardous waste generators which DTSC regulates and, with the CUPAs, oversees.)

DTSC is also the sole entity which can inspect transportable treatment units and hazardous waste transporters. In 2009, over 1.85 million tons of hazardous waste were produced in California and transported by the 982 California-authorized hazardous materials/waste haulers using 357,377 hazardous waste manifests. DTSC uses these hazardous waste manifests to track each shipment of hazardous waste from the point of origin to its safe treatment or disposal.

In California, CUPAs conduct most of the inspections of hazardous waste generators. However, a limited number of generators are inspected by the Enforcement Program as part of the CUPA-State Oversight Program (see section 8 below). Due to the complex recycling laws that apply to refineries, the Enforcement Program also inspects the generator operations at refineries. (There are a few Standardized Permit facilities that are also generators that DTSC inspects but reports as generator inspections.)

The Enforcement Program inspectors invite CUPA regulators to participate in all compliance inspections. When investigating a complaint the Enforcement Program may also coordinate with other federal, state, and local agencies.



Class members conduct a practice drill for sampling of hazardous waste.



DTSC staff conduct a mock drum sampling exercise during a training course.

The 2009 Enforcement Program goals and objectives of the Permitted Facilities, Generators, and Transporters program component, were to meet the required inspection frequencies for RCRA facilities as well as to inspect some state-only (or non-RCRA) permitted facilities and transporters, and to streamline the Enforcement Program's inspection and investigation process.

Program Metrics

Program Resources

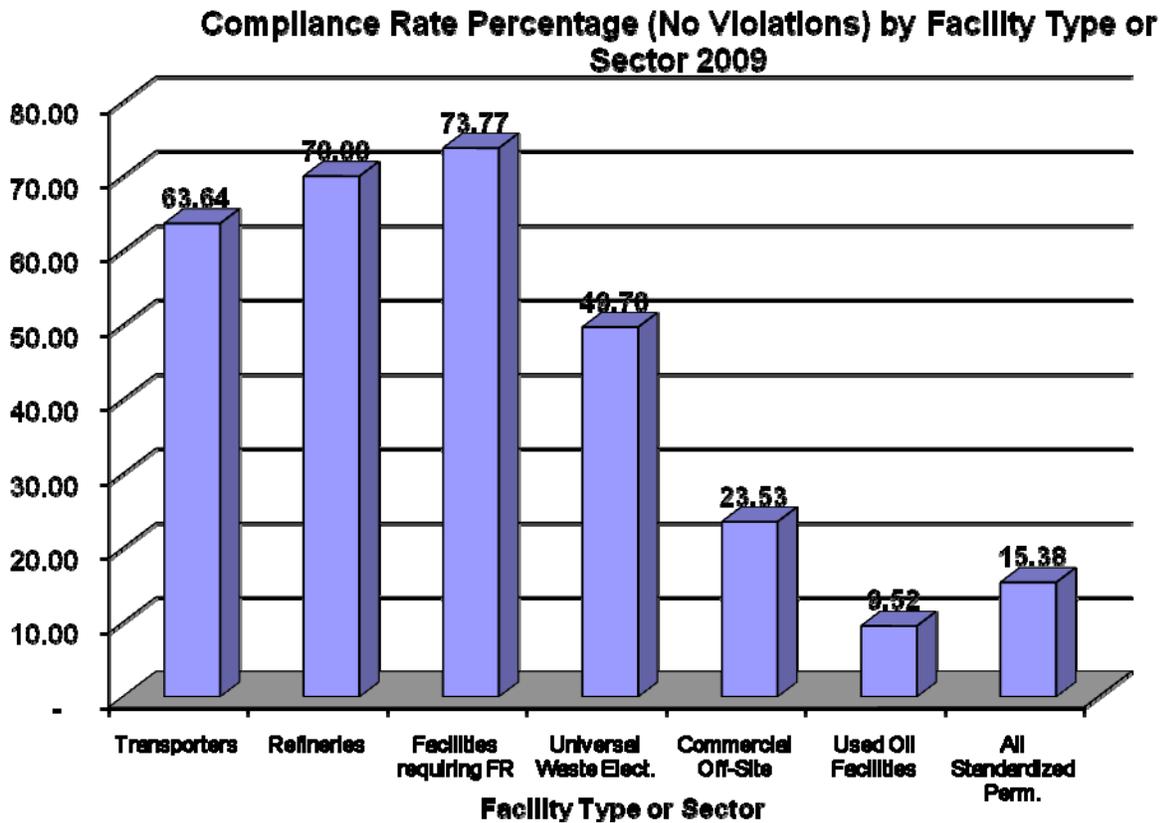
As a portion of their regular duties, staff in 51.5 positions perform permitted facility, generator, and transporter inspections. These staff also participate in the Environmental Justice Initiative (see section 3 below) as well as conduct Electronic Waste Program inspections (see section 5 below).

The Permitted Facility, Generator, and Transporter Program is funded by HWCA and the RCRA grant. Activities involving used oil facilities and transporters are funded by the Used Oil Account from the California Department of Resources, Recycling, and Recovery (CalRecycle).

Program Outputs

- 322 permitted facilities, 13 generators, and 42 transporters were inspected.
- 57 complaints were closed.
- 70 enforcement cases were settled for a total of \$1,988,170.

Compliance rates, with no major or minor violations, by facility sector are shown in the graph below.



Below is a table showing the number of formal enforcement actions taken by DTSC during the past four years:

Formal Enforcement Initiated	Fiscal Year			
	2006	2007	2008	2009
District Attorney/City Attorney Referral *	0	0	1	1
Administrative Orders **				
Inspections	64	57	30	46
Complaints	16	6	10	22
Total	80	63	40	68
Referrals to Attorney General	5	2	0	4
Referrals to Other Agencies	0	1	0	1

* Note: Civil Referral Only.

** Note: Includes Initial Orders and Order and Settlements

Program Outcomes

Through DTSC's proactive inspections and resulting enforcement actions, the potential illegal handling and release of hazardous waste has been decreased.

2) California- Mexico Border 2012 Program

Description

The California border region constitutes an area 62 miles north and 62 miles south of the United States/Mexico border in San Diego and Imperial counties.

The Border Program investigates complaints and addresses conditions found in California's border region with Mexico as part of the California-Mexico Border 2012 Program. The Border Program tracks hazardous waste in the border region, conducts truck inspections at the border crossings (Ports of Entry), oversees a contract with the San Diego CUPA for conducting truck inspections, and conducts training in the border region and in Mexico to promote compliance with the hazardous waste/materials laws and regulations. The Border Program is proactive in promoting hazardous materials reduction and implementing pollution prevention programs through outreach and training. DTSC partners with the San Diego CUPA to develop training curricula, training literature, and training delivery. The Border Program also provides support to other State, local, and federal agencies, as well as to the State of Arizona.



DTSC's Ryan Atencio talks with a U.S. Customs and Border Patrol Agent near the Mexico border.

Shipments of hazardous materials (including hazardous waste) are allowed to enter the United States at the Otay Mesa Port of Entry four days per week, and the Calexico Port of Entry one day per week. Border Program inspectors conduct truck stops at these Ports of Entry three of these four days with the San Diego CUPA inspectors conducting truck stops the fourth day. The inspectors select truck traffic entering California from Mexico and classify the cargo while they are inspecting the shipments for compliance with California and United States environmental laws and regulations. The inspectors classify cargo into three categories used by the U.S. Border Customs Service: RCRA and non-RCRA hazardous waste; American Product Returned; and non-regulated material. DTSC and the San Diego CUPA do not regulate the latter two.

The 2009 goals and objectives for the Border Program component were to continue its training, education, outreach, industry assistance, and compliance assistance in the border region as part of its year 2012 objectives that include: assessing and responding to citizen complaints, increasing compliance assistance and compliance incentives; emphasizing compliance monitoring and enforcement to reduce the risks from non-compliant entities; and encouraging voluntary pollution prevention. The Border Program will continue conducting inspections, taking enforcement actions against violators, and promoting pollution prevention in the U.S. and Mexico.

Program Metrics

Program Resources

Two staff conduct border related activities as described above.

The border work is funded by the RCRA grant.

Program Outputs

EERP MEXICAN BORDER TRUCK STOPS

	NUMBER OF TRUCKS	VIOLATIONS
RCRA and Non-RCRA Waste	178	7
Non-Regulated Materials/Non-Hazardous Waste	1438	No Jurisdiction
American Products Returned	468	No Jurisdiction
TOTAL	2,084	7

Of the 2,084 Border truck stops that were conducted, after examination of shipping papers and related documents, 178 trucks contained waste shipments that were regulated by DTSC. A total of seven violations were detected, resulting in two enforcement cases. The violations were resolved and the cases settled for a total amount of \$28,000 in administrative penalties.

During 2009 the Border Program coordinated border trainings with Mexican regulatory agencies to be presented in May 2010. The training sessions include: Import/Export of Hazardous Waste through the California/Mexico Border; Hazardous Waste Classification/Management; Pollution Prevention for Electronic Industry; and DOT labeling/packing requirements.

Future DTSC performance measures will include identifying the number of individual businesses that received training from the Border Program, identifying number and type of training courses delivered to each individual business, and identifying businesses that are high-risk entities within the border region that will benefit from training.

Program Outcomes

Approximately 180 tons of hazardous waste were prevented from illegally entering the United States.

3) Environmental Justice Initiative

The Environmental Justice (EJ) Initiative addresses enforcement in EJ communities and furthers DTSC's compliance with California's Environmental Justice law. California is the first state in the nation with an environmental justice law. Government Code section 65040.12 (adopted September 10, 2001) defines environmental justice in the State as "the fair treatment of people of all races, cultures and incomes with respect to the development, adoption, implementation and enforcement of environmental laws and policies."

The Environmental Justice Initiative begun in mid-2007 continued in 2009 with the addition of work in East Oakland, San Bernardino and Riverside counties. Work in Fresno, Imperial, and Los Angeles counties continued with community task forces formed in Imperial and Fresno, and an Interagency Collaborative continuing in Los Angeles County. The application for a US EPA grant to enhance EJ work in Los Angeles was successful. California was one of five states across the country to receive \$160,000 in grant funding. Monies from the grant will be used to fund work in the cities of Wilmington and Maywood, California. Los Angeles communities will also benefit from monies coming from a Showcase Communities Grant given to US EPA Region 9. Monies from this grant will fund projects recommended by community leaders that are a direct outcome of DTSC's EJ Initiative.

The work underway through the EJ Initiative is community-based bringing together government entities and EJ communities with a shared goal of identifying and addressing environmental harms. The EJ Initiative compliments and strengthens DTSC's traditional environmental enforcement programs.

The EJ Initiative is a key element of DTSC's Strategic Plan, which establishes three goals directly relevant to Environmental Justice:

- DTSC is a leader in the institutionalization of the process of obtaining community input for the identification and reduction of toxic harms.
- DTSC programs maximize protection of human health and the environment, and the restoration of communities impacted by toxic harm.
- DTSC is responsible, accountable, and transparent to its stakeholders, the public, and staff.

Access the Strategic Plan at:

http://www.dtsc.ca.gov/InformationResources/upload/ESP_REP_StrategicPlan.pdf

Three objectives support and enhance these goals:

- Reduce environmental harm and health risks through targeted enforcement actions of the "worst offenders" identified by EJ communities.
- Minimize arbitrariness by establishing fair, consistent, and uniform enforcement.
- Democratize the environmental enforcement processes by opening the enforcement process to the public.

How it Works

Work in an EJ community begins with bus tours guided by EJ community members. On the tours multiple sites with environmental hazards are visited. The next step is a government-imposed deadline to return to the community 100 days later in an effort to establish ongoing community based task forces. The task forces aid in maintaining responsiveness, accountability, responsibility, and transparency. Through the Initiative work to date, DTSC has found that there must be a nexus of community input and observations, prosecution, and environmental justice with enforcement. The expertise of criminal investigators and specialized staff from local, state, and federal governmental agencies brought into investigations have contributed greatly to solving environmental harms. Broad-based, multi-agency inspections have resulted in compliance and cleanup of contaminated sites.

DTSC EJ Enforcement Initiative - Elmhurst

In the Elmhurst area of East Oakland, a group of determined residents has worked on blight issues and cleanup and development of sites since 1994. The May 2009 bus tour brought issues in East Oakland to the forefront. Only two of the sites investigated had no violations. Enforcement and compliance efforts are ongoing at nine facilities inspected.



A DTSC scientist shows school children sampling jars.

DTSC EJ Enforcement Initiative

Launched in mid-2007 by DTSC, the Initiative is novel because it brings together government entities that partner with EJ communities to address environmental harms using today's laws and regulations. At DTSC, the Initiative is a fundamental level of enforcement work that compliments and strengthens our traditional environmental enforcement processes. The Initiative also is a key element of DTSC's Strategic Plan, and furthers DTSC's compliance with California's environmental justice law, which marked its ten-year anniversary in 2009.¹ DTSC's Initiative is consistent with US EPA's "Proposed National Priority: Environmental Justice," released December 2009, where US EPA envisions geographic-based enforcement that works with EJ communities.

Program Outcomes

Targeted inspections and pending enforcement have resulted in enhanced environmental protection for 1,100,000+ people in environmental justice communities.

¹ Clifford Rechtschaffen, et al., *Environmental Justice: Law*

That said, it has been shown that the people who are closest to environmental harm – adults and children in EJ communities, for example -- are the first to suffer ill-effects from exposure to environmental toxicants. And theirs are not one-time injuries. They often are forced to live with impaired health. Their environment, health, quality of life, and even their life span are decidedly different from other Californians.² In 2009, DTSC enforcement staff did Initiative work in Imperial County, East Oakland, Pacoima, Wilmington, Maywood, San Bernardino/Riverside and the Fresno area. Each community has unique environmental burdens and health risks.

Imperial is the southernmost county in California and has the state's highest rate of childhood asthma hospitalizations. Nearly 85 percent of these hospitalizations involve Latino children.³

The community of Wilmington is adjacent to the Port of Los Angeles, and residents have complained for years about air pollution and respiratory illnesses. A study received in 2009 from the UC Davis DELTA Group at the University of California Davis showed the presence of lead and very fine metal particles in the air in Wilmington near a metal shredder that operates in the port.⁴

For More Information

The Enforcement and Emergency Response Program produced a report to chronicle its 2009 Environmental Justice activities. The Report, at the link below, is not only a report card on the Initiative, but is also a statement about what we have learned since the Initiative's inception in mid 2007: http://www.dtsc.ca.gov/GetInvolved/upload/EJ_Enf_Initiative_Rprt2009.pdf

4) Financial Assurance Program

Description

The purpose of the Financial Assurance Program is to affirm that hazardous waste facilities maintain sufficient financial resources to pay for facility closure, post-closure, third party liability (sudden and non-sudden accidental occurrences), corrective action, and operation and maintenance agreements. There are currently 293 facilities which are required to maintain financial assurance. The Financial Assurance Program performs detailed analyses (reviews) of financial assurance mechanisms, initiates enforcement actions where mechanisms are deficient, maintains the inventory of financial assurance mechanisms, prepares financial releases when a facility closes, processes requests from companies for reimbursement of costs associated with facility closure or post-closure, prepares reports, and provides training and assistance.

² For example, see the Bay Area Regional Health Inequities Initiative's 2008 report, "Health Inequities of the Bay Area" which states: "Most experts agree that health care contributes only 10%-15% to health outcomes and life span. Where you live is probably a bigger determinant of your health than whether you have health insurance. People who live in West Oakland ... can expect to live on average 10 years less than those who live in the Berkeley Hills."

³ Border Asthma & Allergies Study Final Report at http://www.ehib.org/projects/BASTA_FINAL_Sept2009.pdf.

⁴ UC DAVIS DELTA Group's "Final Report: Deposition of Coarse Toxic Particles in Wilmington, CA" April 4, 2009, at <http://www.dtsc.ca.gov/HazardousWaste/upload/Terminal-Island.pdf>.

Financial assurance reviews are conducted whenever a facility, which is required to maintain financial assurance, is inspected as discussed in B (1) above. These reviews are considered to be inspections and are tracked in the EnviroStor database. Financial assurance reviews are also conducted prior to the permitting of a new facility or renewal of an existing facility's permit, when a facility changes its financial mechanism, and after a corrective action plan or operation and maintenance agreement is approved. These reviews are not considered to be inspections and thus are not currently tracked in the EnviroStor database.

The 2009 goals and objectives were to assist the CUPAs on financial assurance requirements and to perform a more detailed review of facilities and their ability to meet the financial assurance requirements when providing the financial test as their mechanism.

Program Metrics

Program Resources

The Financial Assurance Program consists of four analysts and a supervisor, and is funded by the RCRA grant, Hazardous Waste Control Account, Used Oil funds, E-waste funds, and various Site Cleanup funds. The four analysts work full-time conducting Financial Assurance activities.

Program Outputs

The Program conducted 75 financial reviews which are considered to be inspections. Financial reviews were also conducted for permitting, corrective action, and operation and maintenance agreements, but the number is unknown as there is no formal tracking mechanism for these types of reviews.

The Program processed 18 reimbursement actions, or releases of, private financial assurance funds which were overseen by DTSC.

Program Outcomes

Compliance with the financial assurance requirements assures that private funds will be available to pay for those obligations, thus avoiding the need to use public funds for such purposes. The total amount of money that the Program oversees is approximately \$1.9 billion.

5) The Electronic Waste Program: The E-Waste Team and E-Waste Fraud Unit

Description

The California Electronic Waste Recycling Act (SB 20), as amended by SB 50 and subsequent regulations, established that electronic equipment such as televisions (cathode ray, LCD, and plasma), computer monitors (cathode ray and LCD) and portable DVD players with LCD screens are hazardous waste. These devices may contain metals such as lead, arsenic, mercury, chromium, cadmium, and beryllium. Enforcement of electronic waste laws and regulations is funded by a recycling fee paid by consumers at the time of first sale of specific electronic devices defined by statutory and regulatory requirements. California law and regulations are broader in scope and more stringent than the corresponding federal regulations.

The Electronic Waste Team (E-Waste Team) conducts inspections of electronic recyclers and collectors and takes enforcement against those found to have serious violations. Recyclers who receive money from the Department of Resources Recycling and Recovery (CalRecycle) Covered Electronic Waste payment program are inspected yearly; e-waste collectors are inspected periodically (approximately once every three or four years). The Team also prepares and provides guidance documents and technical assistance to e-waste facilities.

DTSC and CalRecycle jointly developed the concept of a multidisciplinary effort to detect and investigate fraud in the Electronic Waste Recycling program, which includes over 650 approved collectors (and an additional estimated 350 unapproved collectors) and 61 participating recyclers and processors of electronic waste (and approximately an equal number of nonparticipating recyclers and processors). The E-Waste Fraud Unit is located within the Office of Criminal Investigations (OCI), and follows up on fraud uncovered during CalRecycle's review of payment claims submitted by approved recyclers. The E-Waste Fraud Unit is designed to work with the CalRecycle independent of the regulatory inspections conducted by the E-Waste Team. OCI also has two criminal investigator positions to assist the E-Waste Fraud Unit in any criminal fraud investigations.

The 2009 goals and objectives for both the E-Waste Team and E-Waste Fraud Unit were to ensure that the universe of recyclers and collectors continue to be identified and inspected, and to increase the compliance rates for both groups through a combination of education, outreach, and training as well as inspections.

Program Metrics

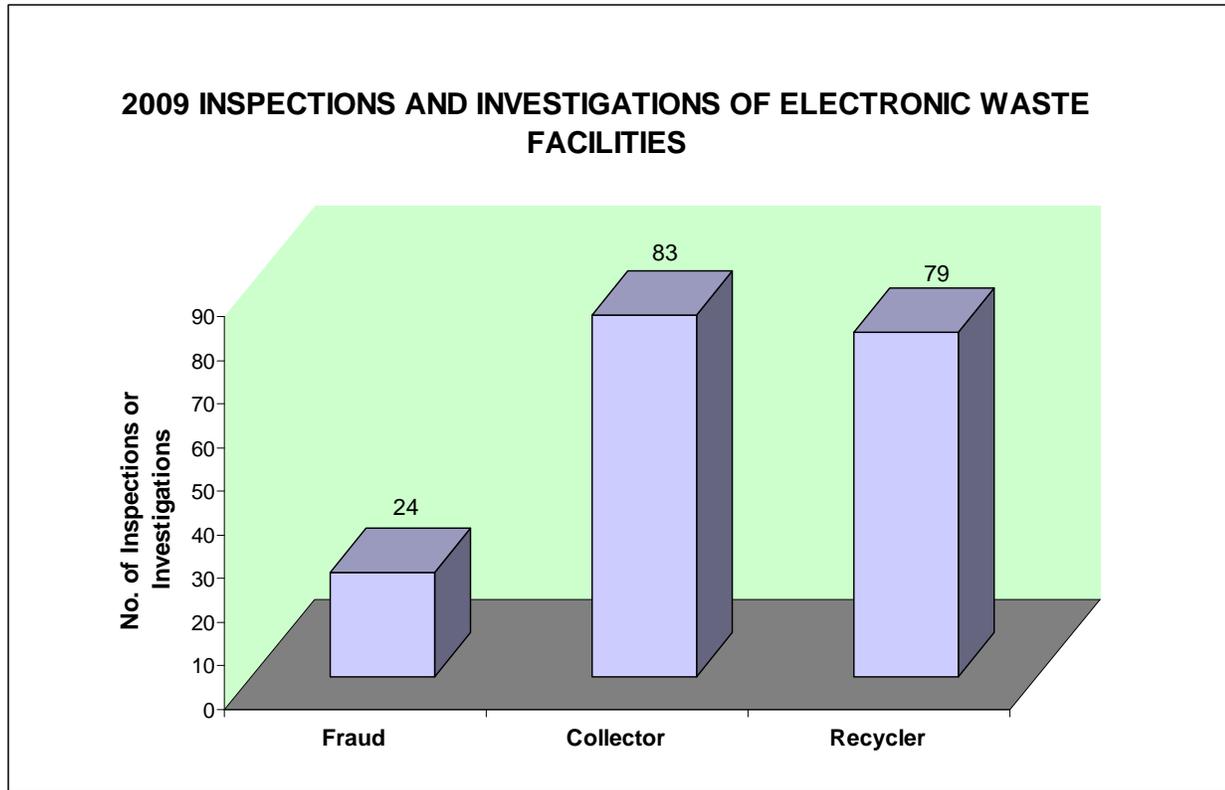
Program Resources

Ten staff are assigned to the E-Waste Team; all members participate on a part-time basis. Eight of the staff conduct inspections and develop enforcement cases; the other two staff perform these duties as well as investigate complaints of e-waste handlers. The Team Leader serves as coordinator for the E-Waste Team as well as the point of contact with CalRecycle.

The E-Waste Fraud Unit consists of five staff, a supervisor, three auditors, and a computer forensics specialist. All members of the E-Waste Fraud Unit conduct investigations and all work full-time on fraud issues.

The E-Waste Team and E-Waste Fraud Unit are funded by the Electronic Waste Recovery and Recycling Account.

Program Outputs



In 2009, 22 enforcement cases against e-waste collectors and recyclers settled for a total of \$159,300 in administrative penalties.

Program Outcomes

A reduction of waste mishandling and releases to the environment of mercury and other toxic heavy metals was accomplished by the Enforcement Program’s increased number of inspections of e-waste collectors and recyclers.

6) Compliance Assistance Team

Description

The Compliance Assistance Team (CAT) was developed to provide education and outreach to specific industry sectors to improve compliance with California’s hazardous waste requirements. During Calendar Year 2009, the CAT developed and implemented a project proposal to provide assistance and outreach to new car dealers involved with vehicle service repair with review and input from the California New Car Dealers Association (CNCDA) and the California CUPA Forum. The CAT plans to conclude implementation of the proposal in 2010 and conduct a self-assessment to evaluate the effectiveness of the first project and prepare recommendations for any future team projects.

The 2009 goals and objectives were to:

- build a cooperative and transparent relationship with business, industry, and the CUPAs;
- identify non-compliance issues and promote consistency in applying regulations;
- improve hazardous waste compliance understanding using compliance assistance tools;
- promote pollution prevention, green technology, and best management practices; and
- improve compliance rates.

Program Metrics

Program Resources

The CAT consists of seven staff who participate in the team on a limited basis except for one of the team co-leaders who is full time. Three of the members and the two team sponsors are Enforcement and Emergency Response Program staff, and the other members are from other programs within DTSC, including the Office of External Affairs, the Office of Legislative and Regulatory Policy, and the Pollution Prevention and Green Technology Program.

The CAT is funded by the HWCA.

Program Outputs

Three separate surveys were developed and finalized with CUPA Forum and CNCDA input. The surveys collected baseline information on car dealership current hazardous waste handling practices and compliance issues from the CUPAs, new car dealers and new car dealer consultants. Surveys were distributed to approximately 85 CUPAs, and the CNCDA and their consultants. DTSC received responses to the surveys from 22 CUPAs, 57 car dealers throughout California, and ten car dealership consultants. The CAT conducted site visits at six new car dealer service stations to observe hazardous waste generating and handling operations. Based on the review and evaluation of the survey data collected, meetings held with the CNCDA and their consultants and the site visits, the CAT selected eleven issues related to California hazardous waste requirements to focus its outreach and assistance efforts. The CAT is developing: 1) a webpage that new car dealers can access via the DTSC website for industry-specific compliance information; and 2) new materials for the website that will present information in a straight forward, simplified manner. The new webpage is expected to go online in 2010. The CAT also developed two articles on hazardous waste compliance issues for the CNCDA Bulletin.

Program Outcomes

Based on the 2009 CAT activities, DTSC was able to:

- build a more cooperative and transparent relationship with the CNCDA and the CUPA Hazardous Waste Technical Advisory Group of the CUPA Forum; and
- identify non-compliance issues and promote consistency in applying regulations among new car dealers.

The CAT has not yet developed a method to measure improvements in understanding or compliance.

7) DTSC as the CUPA in Trinity and Imperial Counties

Description

The Enforcement Program serves as the CUPA in Imperial and Trinity Counties. Cal/EPA, exercising its authority, designated DTSC as the CUPA for these two counties beginning January 1, 2005. In this CUPA capacity, the DTSC Enforcement Program is responsible for implementing the six elements of the Unified Program (UP) as if it were any other local jurisdiction.

The purpose of the UP is to consolidate the administration, including permits, inspections and enforcement, of six environmental programs formerly administered by various state and county agencies as listed: hazardous waste generators and onsite treatment facilities; above ground storage tank program; underground storage tank program; hazardous material release response plans and inventories (business plans); California accidental release prevention program (CalARP); and hazardous materials management plans and inventories.

The size of the regulated universe in Imperial County is approximately 830 facilities. The size of the regulated universe in Trinity County is 143 facilities. All CUPA facilities must generally be inspected on a three year inspection schedule with annual inspections of facilities with underground storage tanks.

Cal/EPA has a triennial CUPA Evaluation Program. In 2007, the DTSC Imperial and Trinity CUPAs underwent their triennial Cal/EPA Evaluations. The Summary of Findings and Recommendations for the Imperial CUPA was “satisfactory performance with some improvement needed.” The target goals for Imperial were to meet the required inspection frequencies and to prepare a county-wide area plan. In 2009 the Imperial CUPA successfully corrected three of the ten deficiencies noted and anticipates correcting the remaining seven in 2010. In order to address the recommendations the Imperial CUPA received as the result of the triennial evaluation, the Imperial CUPA intends to hire two additional staff inspectors (HSS). Should this not suffice, the Imperial CUPA is prepared to attempt to redirect staff from DTSC function to conduct CUPA inspections.

The Summary of Findings and Recommendations for the Trinity CUPA was “unsatisfactory performance with improvement needed.” On August 18, 2008, the rating of the Trinity CUPA was modified to “satisfactory with some improvement needed” as seven deficiencies had been corrected and substantial progress had been made toward correcting the remaining deficiencies. By the end of 2009 the Trinity CUPA successfully corrected all deficiencies except three, and anticipates correcting these deficiencies in 2010.

In addition to correcting the deficiencies from the Cal/EPA Triennial Evaluations, the goal and objective for 2009 for both CUPAs were to continue identifying new businesses which are subject to regulation. For additional information, see:

<http://www.dtsc.ca.gov/HazardousWaste/CertifiedUnifiedProgramAgencies.cfm>

Program Metrics

Program Resources

The Trinity CUPA has one position with the work performed part time by several staff. This one position also includes a portion of a supervisor’s time as well as administrative staff time. The Trinity CUPA staff are located in the Sacramento DTSC Cal Center office and travel to Trinity County to conduct work activities. The Imperial CUPA has eight full-time positions (one supervisor, five field staff, and two clericals) devoted

solely to CUPA activities. One Senior Hazardous Substances Scientist in the Cypress office is working part time on managing and upgrading the CUPA data systems for both Imperial and Trinity. The Imperial CUPA relocated its office from Calexico to El Centro on July 15, 2009.

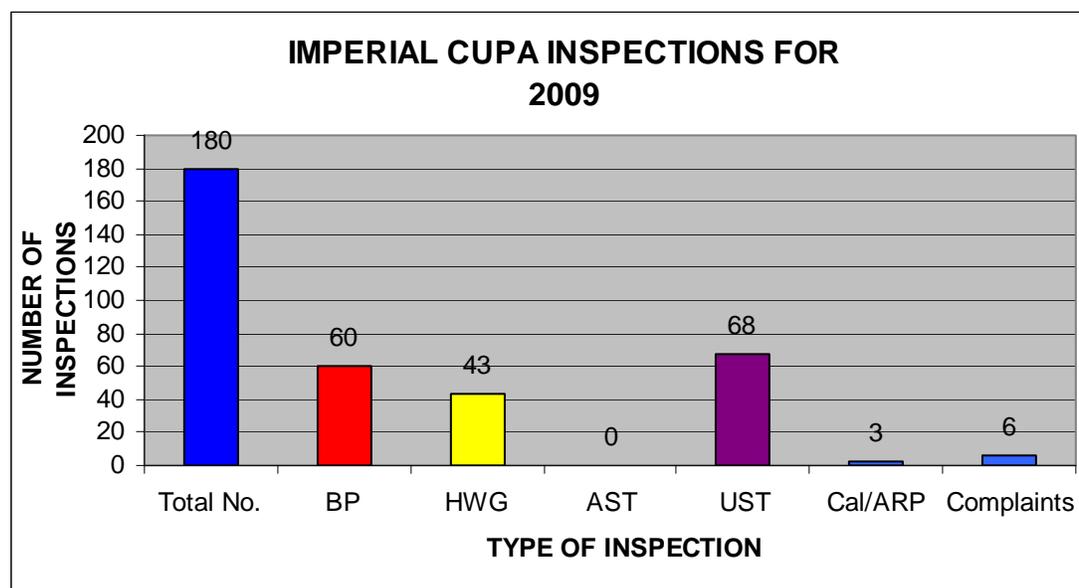
The Imperial and Trinity CUPAs are funded by the State CUPA Account. The money in this account comes from fees charged to the businesses subject to the CUPA programs.

Program Outputs

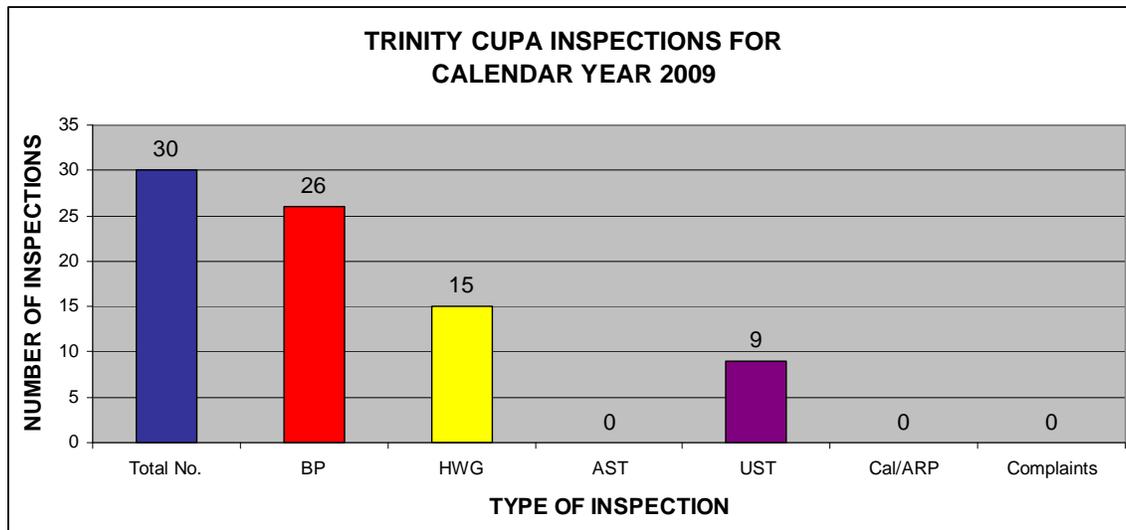
Both the Trinity and Imperial CUPAs continued to work on identifying their universes of regulated facilities. The Imperial CUPA inspected approximately 22 percent of its universe (180 facilities) and the Trinity CUPA inspected approximately 21 percent of its universe (30 facilities).

Outputs for the Imperial and Trinity CUPAs are shown below. Since some of these businesses have several program elements the total of the types of inspections will exceed the total number of inspections.

NUMBER OF INSPECTIONS

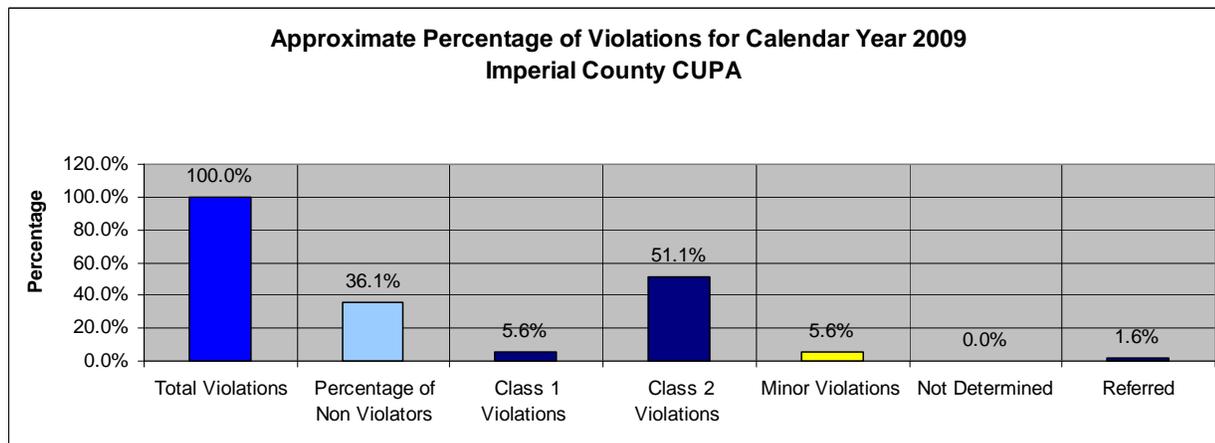


BP = Hazardous Materials Business Plan, HWG = Hazardous Waste Generator, AST = Aboveground Storage Tank, UST = Underground Storage Tank, Cal/ARP = California Accidental Release Prevention, Complaints = inspections in addition to the required inspections.

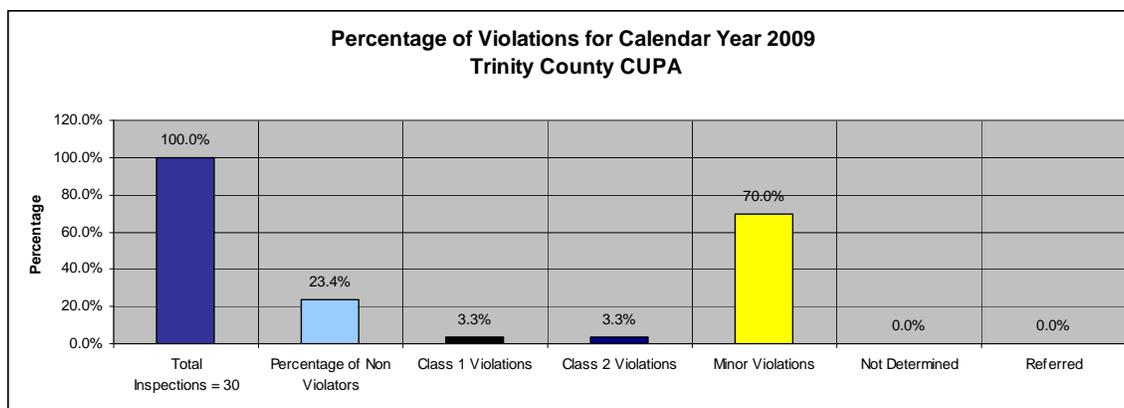


BP = Hazardous Materials Business Plan, HWG = Hazardous Waste Generator, AST = Aboveground Storage Tank, UST = Underground Storage Tank, Cal/ARP = California Accidental Release Prevention Program, Complaints = inspections in addition to the required inspections.

Compliance rates for Imperial and Trinity County CUPAs are shown in the charts below.



Non-Violators = 65, Class 1 Violators = 11, Class 2 Violators = 91, Minor Violators = 11, Not Determined = 0, Referred = 2. Two enforcement cases were settled by Imperial CUPA in 2009.



Non-Violators = 7, Class 1 Violators = 1, Class 2 Violators = 1, Minor Violators = 21, Not Determined = 0, Referred = 0

No enforcement cases were settled by Trinity CUPA. Tanks at two Underground Storage Tank facilities were Red Tagged in 2009, preventing them from receiving shipments of fuel until violation were corrected.

Program Outcomes

The illegal handling and release of hazardous waste has been decreased by DTSC's inspections in Imperial and Trinity counties.

8) DTSC's CUPA-State Oversight Program

Description

There are 83 CUPAs in California including the Imperial and Trinity County CUPAs described in component 7 above. For the 83 CUPAs, DTSC performs oversight functions which include: assisting with regulatory interpretations on inspections and enforcement; providing training; evaluating each CUPA on the hazardous waste portions of the CUPA program during the Cal/EPA triennial evaluation of each CUPA; collecting and reviewing large quantity generator inspection/enforcement data on a quarterly basis; participating in various CUPA forum meetings and workgroups; coordinating with other local, state, and federal agencies regarding the CUPA Program; and, conducting independent oversight inspections.

The key goals and objectives for 2009 were to provide training on areas of the regulations that CUPAs have been found to be deficient in regulating businesses, review files to ascertain that CUPAs have properly identified and classified violations, ensure that all violators have returned to compliance, and that appropriate enforcement actions were taken. See

<http://www.dtsc.ca.gov/HazardousWaste/CertifiedUnifiedProgramAgencies.cfm>

for more information.

Program Metrics

Program Resources

Two staff are assigned full time to conduct CUPA oversight inspections and evaluations. Another eight staff conduct training, consultation, and technical assistance to CUPAs part time.

CUPA Oversight activities are funded by the Cal/EPA Unified Program Agency Fund. The funding also includes \$146,000 for a training contract. Independent oversight inspections are funded by the RCRA grant.

Program Outputs

Accomplishments of the State Oversight and Enforcement Branch in DTSC's Enforcement Program include:

- Conducting 13 oversight inspections.
- Participating in 13 triennial evaluations of CUPAs.
-
- Conducting 8 independent oversight inspections.
- Settling 2 enforcement cases for a total of \$128,295.

C

Brake Parts, Inc. settled for \$63,000. Violations included: failure to perform waste determination; failure to maintain the facility to prevent releases of hazardous waste to the environment; unlabeled bulk containers of hazardous waste; and incomplete labeling of hazardous waste containers.

Affymetrix settled for \$65,295. Violations included: storage of hazardous waste beyond ninety days without authorization; and failure to label hazardous waste storage tanks with appropriate information.

DTSC provided an individualized training class titled "Hazardous Waste Generator/ Intermediate Tiered Permitting Training" to the City of Oakland CUPA with five attendees in February 2009; Used Oil Training to CUPAs in Napa with 40 attendees in June 2009; and Used Oil Training to CUPAs in Stockton with 28 attendees in September 2009.

DTSC also participated in the Annual CUPA Conference held in Garden Grove January 26-29, 2009. Staff presented or participated in the following classes: CUPA Regulatory Update; Tiered Permitting Inspector; Advanced Hazardous Waste Inspector Training; Generator Requirements; Green Chemistry Initiative; Hazardous Waste Identification and Classification; Pollution Prevention Workshop for Metal Finishing Industry; Pollution Prevention in Vehicle Repair and Auto Body Repair Industries; Alternative Textile Cleaning processes and Spotting Chemicals; Conceptual Site Model - Site Lithology: Key to Understanding Fate and Transport of Hazardous Wastes/Substances; Multimedia Environmental Sampling as Evidence and Lab Analysis Report Interpretation; Electronic Waste Management Standards; Common Manifest Errors and Transportation Problems; Jewelry Plating, Cleaning, and Repairing; Community Involvement: The Next Step in Environmental Enforcement; Alternative Management Standards for Treated Wood Waste; Methamphetamine Awareness Training for First On-Scene Law Enforcement Personnel; Conceptual Groundwater Model – Evaluating Solvent Groundwater Plume; Clean up: Remedial Designs and Pilot Studies; Soil Gas Investigation; Risk Assessment – Toxicology; HAZWOPER Refresher; and Electroplating Facility Inspection Tutorial.

In addition, DTSC provided: field training to the City of Oakland CUPA staff on how to conduct hazardous waste generator inspections at two facilities in February 2009; site specific technical assistance to the City/County of San Francisco March 2009; and technical assistance in the field to the San Joaquin County CUPA staff in June 2009.

In November 2007 the CUPA-State Oversight Program began an initiative to determine the regulatory status of "wet floors" at plating facilities. A "wet floor" is a situation where plating process liquids are allowed to accumulate on the floor of a plating facility, or the floor is used as a conveyance for the liquid wastes to a collection point where they are accumulated and pumped elsewhere for reuse, reclamation, treatment, and/or disposal. A workgroup formed and focused on three aspects: (1) whether or not the waste

on the plating floor is hazardous; (2) the regulatory framework of the plating floor area (i.e., a sump, a surface impoundment, a tank, or a miscellaneous unit); and (3) available regulatory options to determine the regulatory status of the wet plating floor. The draft report was reviewed by DTSC staff, the California CUPA Forum's Technical Advisory Groups, and the California Metal Finisher Association, and was finalized in January 2010.

Program Outcomes

The CUPAs have improved their inspections and enforcement as a result of the CUPA Oversight provided by DTSC. The results of the DTSC CUPA evaluations and the related evaluation data indicate that more consistent inspections and more consistent enforcement actions are occurring among CUPAs.

9) Criminal Enforcement Program

Description

Criminal investigations are carried out by sworn peace officers in the Office of Criminal Investigation (OCI). These peace officers primarily investigate criminal violations of HWCA, and in so doing prepare and execute search warrants, carry firearms, and make arrests. Prior to appointment, these peace officers are required to pass an extensive background investigation including psychological screening and medical examination. Within the first year of employment, they are required to successfully complete a 17-week law enforcement training program certified by the Commission on Peace Officer Standards and Training (POST) in addition to health and safety training and other specialized training mandated by DTSC. OCI is also staffed by Hazardous Substances Scientists who investigate complaints, provide scientific expertise in criminal investigations conducted by OCI's peace officers, support environmental crime task forces throughout the state, and coordinate enforcement efforts involving Toxics in Consumer Products (see section 10 below). OCI also includes an Electronic Waste Fraud Unit staffed by auditors (see section 5 Electronic Waste Team and Electronic Waste Fraud Unit above).

The 2009 goals and objectives were to compel comprehensive, voluntary compliance with the provisions of the HWCA through effective and efficient criminal enforcement as a deterrent, to support DTSC's EJ activities, and to support the activities of many environmental crimes task forces throughout California.

Program Metrics

Program Resources

There are 13 criminal investigator and six supervising criminal investigator positions in OCI. All 19 staff conduct investigations. There are 15 Hazardous Substances Scientist/Senior Hazardous Substances Scientist positions which also conduct investigations and assist the criminal investigators.

OCI is funded by HWCA and occasionally other accounts depending on the activity.

Program Outputs

- 258 criminal investigations initiated
- 192 criminal investigations completed
- three search warrants served (one search warrant was for e-waste)
- 10 criminal case referrals to District Attorneys, Attorney General, and the US Attorney
- one arrest (eight arrest-assists with the State Contractor's Licensing Board)
- supported 42 Environmental Task Forces by attending 126 meetings

- 10 cases settled: eight by District Attorneys, one by the Attorney General's Office, and one by U.S. Attorney's Office for a total of \$ 251,900 in fines and penalties, and \$177,235.82 in Investigative costs.
- two cases settled by District Attorney's or U.S. Attorney defendants resulting in six years probation.

10) Toxics in Consumer Products Program

Description

The Toxics in Consumer Products Team (Team) is located within OCI and is composed of hazardous substances scientists. The goal of the Team is to establish an all-encompassing strategy for the implementation and enforcement of all regulated consumer products within DTSC's purview. Laws such as the Toxics in Packaging Prevention Act and the Lead in Jewelry statutes define the regulated consumer products. The Team works to ensure effective internal and external communication and coordination with affected programs and stakeholders as new products become subject to regulation.

The 2009 goals and objectives were to focus Lead in Jewelry enforcement efforts on body piercing jewelry.

Lead in Jewelry

The Office of Criminal Investigations conducted monitoring and investigation of retailers and distributors of jewelry. Health and Safety Code section 25214.2 makes it illegal to manufacture, ship, sell, or give away children's jewelry that contains lead above 600 parts per million (ppm). In 2009, OCI investigated fifteen retailers, wholesalers, and importers. Fourteen of these businesses were selling, distributing, or importing jewelry that exceeded California and federal levels for lead. From the fifteen investigations, six cases (three importers, three retailers) were referred to the Los Angeles County District Attorney or the Los Angeles Office of the City Attorney. Two jewelry cases (one manufacturer, one retailer) were referred to the California Office of the Attorney General. Five of the cases are still under investigation and the remaining two cases were closed with no further action. As part of EERP's efforts to educate and protect the public from exposure to lead-containing products, EERP staff tested items at a variety of lead screening events. Using an X-ray Fluorescence device, EERP staff tested children's jewelry, religious jewelry, toys, and even home remedies in community events in Oakland, Fresno, and Pacoima.

Program Metrics

Program Resources

Three to four hazardous substances scientists within OCI conduct these activities on a part time basis. The work is funded by HWCA.

Program Outputs

The Team conducted 15 product investigations.

Program Outcomes

Approximately 5,000 tainted jewelry items and toys were removed from commerce in California, thus reducing the public's exposure to hazardous materials as well as reducing the impact of heavy metals on the environment.

C. Enforcement Program Data Characteristics

Currently the Enforcement Program does not have a single data base to track its activities. Several Access databases and an Envision database are used by OCI, California–Mexico Border Program, and DTSC as the CUPA Program. The ICE database tracked data for its complaint investigations and the inspection and enforcement actions for permitted facilities, transporters, transportable treatment units, generators, and electronic waste handlers.

DTSC is in the process of consolidating and merging all of its separate internal enforcement databases (except for the Envision database) to a single platform to allow the development of a more comprehensive picture of compliance and enforcement. The Enforcement Program has been working with the company, EcoInteractive, to develop a database for both regulatory and criminal enforcement activities. Selected data from these enforcement activities will then be made available to the public through EnviroStor.

D. Enforcement Program Limitations

The Enforcement Program is currently challenged in its ability to quickly produce reports regarding inspections, investigations, and enforcement because its data reside in several separate databases, as discussed above. This situation should be remedied by the end of calendar year 2010 with the advent of the new EcoInteractive product.

The new, single platform database described above will also allow the Enforcement Program to more easily transfer data to US EPA's RCRA*Info* data system, improving the Enforcement Program's data management function. DTSC's contractor, EcoInteractive, will begin development of XML data transfer capabilities to RCRA*Info* once the new data system has been completed.

E. Enforcement Progress on Key Initiatives

1) Performance Measures

The Enforcement Program's Performance Measures were discussed in the 2008 Cal/EPA Enforcement Report. In 2009 these measures continued to be refined.

2) Green Chemistry

Assembly Bill 1879 and Senate Bill 509 set in statute the partial implementation of the Green Chemistry Initiative's Recommendations, created an online Toxics Clearinghouse, and accelerated the quest for safer products. On October 21, 2009, Green Chemistry Rules Public Workshop was held. Based on comments received, the concept was revamped with a flowchart on the chemical and product prioritization, as well as the safer alternatives assessment processes. Details are available at http://www.dtsc.ca.gov/PollutionPrevention/GreenChemistryInitiative/upload/gc_flowchart-final.pdf.

3) Dental Amalgam Program

As a part of the Compliance Assistance program, DTSC was identified as the department that would oversee the enforcement of dental amalgam waste handling practices. Waste dental amalgam is considered to be a hazardous waste because it contains nearly fifty percent mercury. A team was created in 2009 and is

currently coordinating with various stakeholders, such as non-governmental organizations, local sanitation districts and CUPAs, in order to develop a strategy for outreach, education, inspections, and enforcement of the regulated community.

4) UC Davis UC DAVIS DELTA Group

In May 2009, DTSC formed a contractual partnership with the UC Davis DELTA Group to research the deposition of hazardous waste particulate matter. The UC Davis DELTA Group is a leader in the collection, identification, and study of aerosols, especially those containing ultra-fine particles that can embed in the human body and damage health. The UC Davis DELTA Group is committed to reducing adverse human health impacts caused by the emission, transport, and deposition of these particles and uses advanced sampling and analysis and can track hazardous waste back to its source via identification of a distinctive “chemical signature.”

During the course of an on-going investigation, DTSC worked with the UC Davis DELTA Group to obtain samples of coarse particulate matter generated by a Terminal Island Automobile/Appliance Shredder. An online copy of the report can be viewed at: <http://www.dtsc.ca.gov/HazardousWaste/upload/Terminal-Island.pdf>

Additional sampling was conducted in the summer of 2009 to obtain further information. The second report is still not final, but will be available online once it is completed. At that time, DTSC will address any issues related to hazardous waste disposals and the potential for adverse health impacts.

Since the formation of the Inland Valley Task Force in August 2009, and in response to community concerns within the San Bernardino area, UC Davis DELTA Group has made a commitment along with DTSC, to do the following:

- Evaluate if toxic particle deposition is a problem by conducting sampling at two separate locations, both within proximity to a rail yard. Both sites will include sampling of coarse particles in air deposited on surfaces, which can then be directly transferred to people by contact.
- Design and test a Green-Air-System at UC Davis and then field test the system at a local residence to prove out the technology. The intent is to create clean air by removal of particulates, and use of “green” conditioning systems to create cooled or warmed air as required. The resulting air would be used to create a positive pressure of clean air that will keep the external contaminated air from infiltrating due to normal air exchange.
- Evaluate mitigation options which have quick implementation timelines. Some technological solutions have longer implementation times because of replacement schedules while other mitigation methods can be implemented upon approval, such as vegetative barriers, setbacks, and scheduling changes.

5) Lead Wheel Weights Effort

Senate Bill 757, approved on October 11, 2009, by the Governor, made it illegal (effective January 1, 2010) to manufacture, sell, or install wheel weights with greater than 1000 ppm lead. In response, DTSC has provided education and outreach to the regulated community about the new law. As a part of these efforts, DTSC sent a letter to trade associations, manufacturers, distributors, retailers, and tire installers informing them of the new law and its ramifications. The same information was put into a trade association

newsletter. Additionally, in response to questions from industry a frequently asked questions document was developed and sent out to industry contacts. This information and more was developed into a web page for lead wheel weights on DTSC's website at

<http://www.dtsc.ca.gov/PollutionPrevention/ToxicsInProducts/leadwheelweights.cfm>

The Enforcement Program has shared this information with CUPA's and other agencies through attendance at task force meetings and e-mails. When inspections are conducted at facilities that deal with wheel weights, a copy of the new legislation is shared with the operators, and they are directed to DTSC for further help. DTSC inspectors check to make sure the wheel weights being sold or installed are in compliance with the new law. Future outreach is planned and more enforcement is forthcoming, pending approval of a new position at DTSC.

6) Mercury Thermostat Collection Act

Effective July 2009, the Mercury Thermostat Collection Act of 2008 (the Act) requires thermostat manufacturers, wholesalers, and retailers, along with HVAC contractors and construction and demolition professionals (C&D professionals), to comply with their respective collection, handling, and disposal obligations under the new law. Since that time, OCI has been responding to questions regarding enforcement and applicability of the Act, investigating complaints regarding noncompliance, and assisting the Pollution Prevention Branch with the development of education and outreach materials for wholesalers and C&D professionals in order to encourage compliance with the law. In December 2009, OCI participated in a webinar hosted by the Sierra Club and California Product Stewardship Council in order to provide local governments with information about how they can help their local HVAC wholesalers and contractors meet their legal obligations. During the webinar, OCI informed participants that DTSC will use its authority under California's Hazardous Waste Control Law to ensure compliance with requirements of the Mercury Thermostat Collection Act, and stated that any illegal storage, disposal, treatment, or transportation issue that arises from the mishandling of mercury-containing thermostats will be investigated by DTSC. Participants were advised to use the Cal/EPA online complaint system to report noncompliance, provided with the Cal/EPA web address, and shown how to file a complaint online.

In 2010, OCI will continue to respond to questions regarding enforcement of the Act, and investigate complaints regarding noncompliance.

III. Status of 2008 Directions

The Enforcement Program had designated the following as key in 2009:

Objectives: Some of these may be found in DTSC's Strategic Plan which is located at:
http://www.dtsc.ca.gov/InformationResources/upload/ESP_REP_StrategicPlan.pdf

- By June 2010, increase compliance rates for a selected type of DTSC-regulated treatment/storage/disposal facility or hazardous waste transporters. Status: Transporter compliance declined from 83.06 to 63.64 percent; refineries - 72.73 to 70 percent; facilities requiring FR - 98.73 to 73.77 percent; universal waste electrical - 83.72 to 49.7 percent; commercial off-site - 79.41 to 23.53 percent; used oil facilities - 84.21 to 9.52 percent; all standardized permits - 45.45 to 15.38

percent. DTSC is looking at various economic factors in the regulated business community to see if an underlying cause for the decline is readily apparent. The impact of employee furloughs also reduced inspector visibility and potentially the related deterrent effect achieved from a higher field presence as was the standard in prior years.

- Continue with the Lead in Jewelry enforcement efforts with an emphasis on jewelry items labeled as lead- and nickel-free and, by 2010, achieve compliance with laws regarding lead-containing jewelry available to the public. Status: the Lead in Jewelry enforcement efforts continue.
- Streamline EERP’s inspection and investigation processes. Status: An Inspection Streamlining Team was formed and recommended improvements to the inspection process. These recommendations were approved by DTSC Executive Staff and implemented. DTSC has also adopted Performance Measure 4.3.2: The percentage of inspection reports completed within 65 days. The team found that DTSC is meeting the 65-day deadline about 80 percent of the time (see graph below.)



- Develop, test, and finalize a plan for how to identify and reduce environmental harm in Environmental Justice communities, while at the same time building public trust in government. Status: The Plan is in place and being implemented.
- Edit and update all EERP policies. Status: the policies were edited and updated by January 2009.

- Public notice draft Financial Assurance regulations to address negative assurance language in the financial test, add additional requirements to the financial test, strengthen the requirements for the use of captive insurance, and clarify the length of the post closure. Status: The Financial Assurance regulation package has been withdrawn pending further assessment of the specific requirements.
- Imperial and Trinity County CUPAs will complete correction of remaining deficiencies from the 2007 Cal/EPA Triennial Evaluations. Status: In 2009 the Imperial CUPA successfully corrected three of the ten deficiencies noted and anticipates correcting the remaining seven in 2010. The Trinity CUPA successfully corrected all deficiencies except three, and anticipates correcting these deficiencies in 2010.
- Release the “Wet-floor” Plating Operations report. Status: The document was finalized in January 2010 and made available on the DTSC web page.
- Convert the ICE and OCI databases to databases maintained by EcoInteractive, and make portions of this data available to the public via EnviroStor. Status: DTSC is in the process of consolidating and merging all of its separate internal enforcement databases (except for the Envision database) to a single platform to allow the development of a more comprehensive picture of compliance and enforcement. The Enforcement Program has been working with the company EcoInteractive to develop a database for both regulatory and criminal enforcement activities. Selected data from these enforcement activities will then be made available to the public through EnviroStor.
- Establish the dental amalgam team. Status: Due to resource constraints, DTSC was not able to create a team which would do outreach, education, inspections, and enforcement of the regulated community. Such a team will be formed in 2010.
- Continue partnering with the Toxics in Packaging Clearinghouse to receive complaints on packaging alleged to exceed California’s regulatory standards. Status: Partnering with TPCCH continues (see section 10 - Program Outputs).