



Government of **Western Australia**
Department of **Environment Regulation**

REPORT

Quarterly reporting

Quarter 3 2013–14



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As part of the changes to machinery of government the Department of Environment and Conservation (DEC) was separated on 1 July 2013 into two agencies: the Department of Environment Regulation (DER) and the Department of Parks and Wildlife (DPaW). Any information in this report for the period up to 30 June 2013 relates to activities under the former DEC.

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Introduction

On 1 July 2013 the former Department of Environment and Conservation separated into two government departments, the Department of Parks and Wildlife and the Department of Environment Regulation.

The Department of Environment Regulation (DER) is a regulatory agency responsible for administering environment legislation.

The following legislation administered by DER is relevant to the quarterly report:

- *Contaminated Sites Act 2003*
- *Environmental Protection Act 1986*.

DER has adopted a multi-faceted approach to delivering its regulatory role, which broadly fits into three main functions:

- approvals and licensing supported by education, policy and science
- monitoring, audit and compliance inspections
- enforcement, including complaint and incident investigation.

DER has responsibility under Part V of the *Environmental Protection Act 1986* for the licensing and registration of prescribed premises, clearing permits, and administration of a range of regulations. DER also monitors and audits compliance with works approvals, licences, clearing permits, and their conditions, as well as regulations, and takes enforcement action as appropriate.

Under the *Contaminated Sites Act 2003*, DER regulates contaminated sites by receiving reports of known or suspected contaminated sites, assessing and classifying contaminated sites, maintaining public information on contaminated sites, and ordering and monitoring remediation.

DER plans its industry regulation compliance activities annually, setting inspection targets and reporting on its performance.

DER aims to be an effective regulator, using a balance of proactive engagement and enforcement tools to achieve appropriate environmental outcomes in industry regulation.

DER's quarterly report provides information on the department's targets, performance, activities and outcomes for the following functions:

- works approvals and licences—number and timeliness of works approvals and licences granted for major resource and other projects, and controlled waste licences
- environmental compliance—industry regulation proactive compliance inspection program
- native vegetation clearing permits—number and timeliness of decisions on clearing permit applications made by DER and the Department of Mines and Petroleum (through delegation under the *Environmental Protection Act 1986*)
- contaminated sites—number of classifications of reported known or suspected contaminated sites, and number and timeliness of review of mandatory auditor's reports
- environmental enforcement—statistical and supporting information outlining DER's enforcement activity and outcomes.

1. Works approvals and licences

1.1 Introduction

DER grants works approvals and licences to regulate prescribed activities, as authorised under Part V of the *Environmental Protection Act 1986*.

DER is well advanced in introducing further licensing reform in its Part V approvals process that should result in a more streamlined and timely approvals process and certainty of outcome. Reform initiatives include the Re-Engineering for Industry Regulation and Environment (REFIRE) program and improvements to application processes.

1.2 Performance

Major resource projects

DER (including its predecessor agencies) has tracked and reported its performance in deciding major resource project approvals since the first quarter of 2006. A 'decision made' means an application for a works approval or licence has been granted or refused.

For major resource project approvals, DER has set a target to decide 100 per cent of works approval and licence applications within 60 working days.

The quarterly figures for major resource project works approval and licence applications are summarised in tables 1.1 and 1.2.

During the third quarter of 2013–14, 36 new works approval applications were submitted, which is the second highest number received since the

fourth quarter 2012–13. Thirty works approvals were decided, 10 more than the number decided in the previous quarter.

DER decided 90 per cent of new works approval applications in the third quarter of 2013–14 within the target time frame. This is a decrease in percentage since the last quarter (95 per cent) and is the lowest percentage since the fourth quarter of 2012–13. The average processing time for works approval applications during the third quarter of 2013–14 has increased slightly from 49 days to 53 days.

Only one licence application was received in the third quarter of 2013–14 and four licences were decided, which is slightly fewer than the number decided in the previous quarter. DER met its target and decided 100 per cent of new licence applications in the third quarter 2013–14 within the target time frame; this is an increase in percentage from the previous quarter.

Figures 1.1 and 1.2 provide a quarterly summary, since Q4 2012–13, for major resource project approvals decided by DER and DER's performance in meeting its target time frame.

The quarterly figures for applications for major works approvals and project licences are summarised in tables 1.1 and 1.2.

Works approvals and licences

Table 1.1. Major resource project works approval applications

	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
Carried over from previous quarter	36	44	23	35
New	40	19	32	36
Granted	29	40	20	30
Awaiting Part V action	32	16	25	35
Refused	0	0	0	0
Withdrawn	3	0	0	2
Open at end of quarter	44	23	35	39
Percentage decided meeting target time frame*	100	92	95	90
Average time to decide (working days)	42	48	49	53

*Target time frame = 100% of works approvals decided in 60 working days.

Table 1.2. Major resource project licence applications

	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
Carried over from previous quarter	19	27	22	20
New	13	7	5	1
Granted	3	11	6	4
Awaiting Part V action	7	3	3	0
Refused	0	0	0	0
Withdrawn	2	1	1	0
Open at end of quarter	27	22	20	17
Percentage decided meeting target time frame*	100	100	83	100
Average time to decide (working days)	48	50	45	43

*Target time frame = 100% of licences decided in 60 working days.

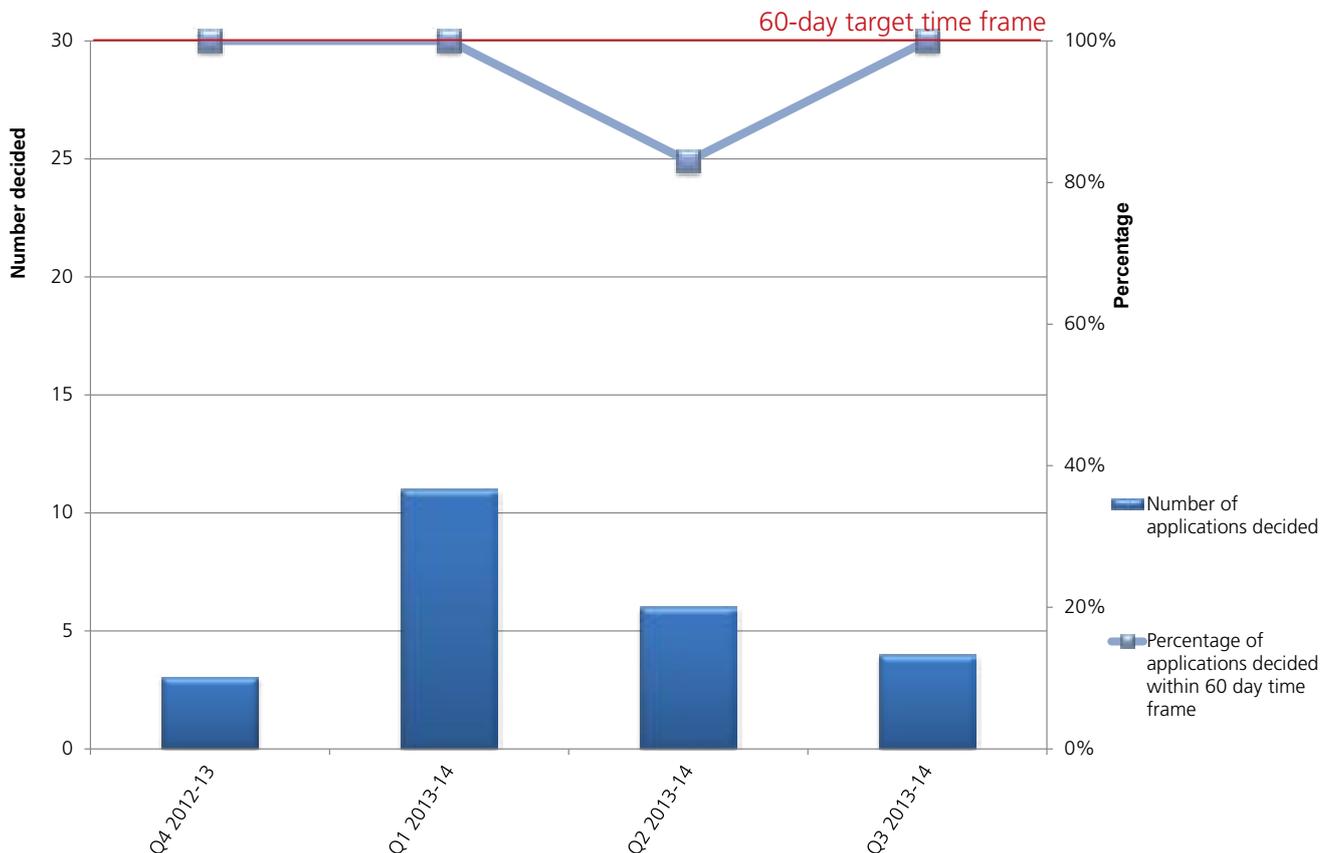
Works approvals and licences

Figure 1.1. Summary of major resource projects works approvals



*Target time frame = 100% of works approvals decided in 60 working days.

Figure 1.2. Summary of major resource project licences



*Target time frame = 100% of licences decided in 60 working days.

Works approvals and licences

Other projects

For non-major resource project (other project) approvals, DER has set a target to decide 80 per cent of works approval and licence applications within a 60-working-day time frame.

Twenty other project works approval applications were decided by DER in the third quarter of 2013–14. The percentage of new approvals approved within the target time frame is consistent with the previous quarter at 90 per cent, exceeding the 80 per cent target.

The average processing time for other project works approval applications increased this quarter to 47 days, compared to 37 days in the previous quarter.

Eight other project licences were decided by DER in the third quarter of 2013–14, the lowest number since the fourth quarter 2012–13.

Eighty-eight per cent of other project licence applications were decided within the target time frame in the third quarter of 2013–14. This is an increase in percentage from the previous quarter. The average time to process a licence application was 42 days.

The quarterly figures for other project works approval and licence applications are summarised in tables 1.3 and 1.4, and figures 1.3 and 1.4.

Table 1.3. Other project licence applications

	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
Carried over from previous quarter	32	27	29	35
New	24	21	28	31
Granted	28	19	22	20
Awaiting Part V action	15	3	19	28
Refused	0	0	0	0
Withdrawn	1	0	0	3
Open at end of quarter	27	29	35	43
Percentage decided meeting target time frame*	68	74	91	90
Average time to decide (working days)	53	49	37	47

*Target time frame = 80% of works approvals decided in 60 working days.

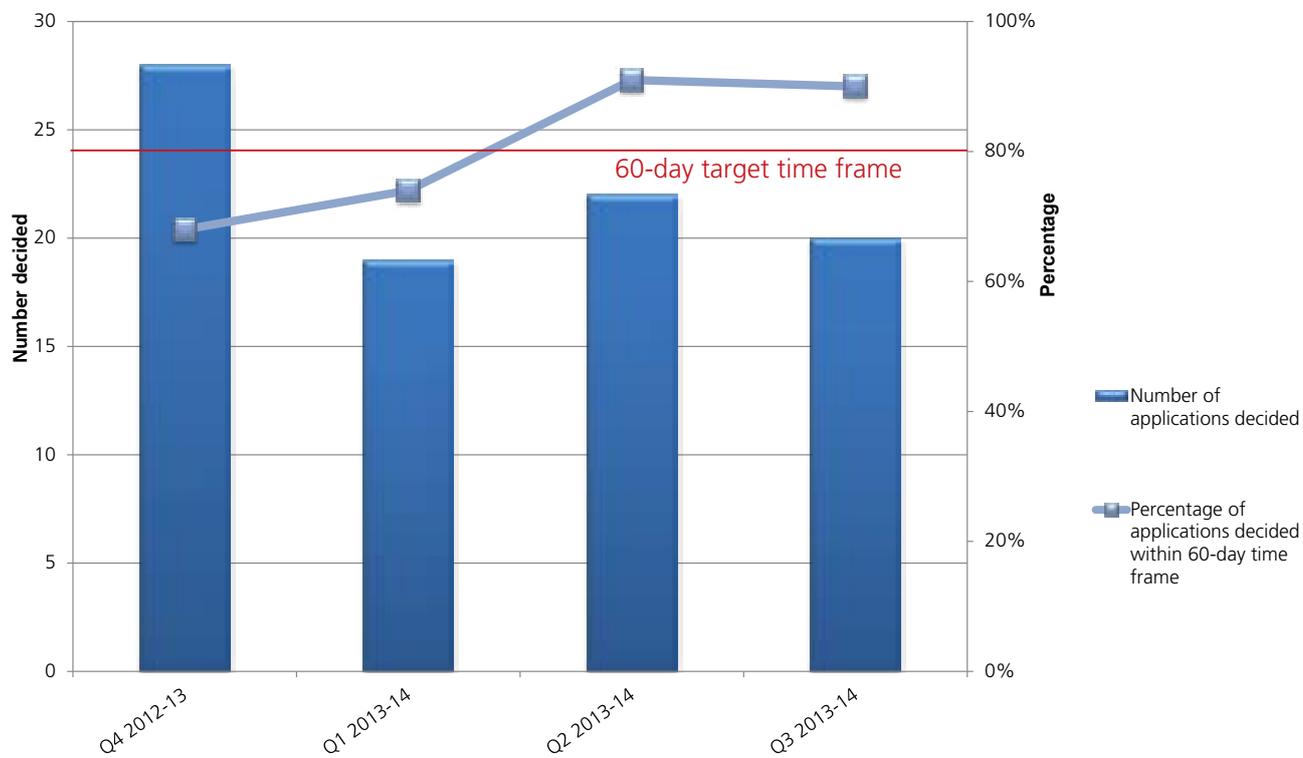
Table 1.4. Other project licence applications

	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
Carried over from previous quarter	21	19	17	16
New	11	16	12	7
Granted	11	17	11	8
Awaiting Part V action	7	9	9	10
Refused	0	0	0	0
Withdrawn	2	1	1	0
Open at end of quarter	19	17	16	15
Percentage decided meeting target time frame*	64	88	64	88
Average time to decide (working days)	56	39	56	42

*Target time frame = 80% of licences decided in 60 working days.

Works approvals and licences

Figure 1.3. Other project works approvals



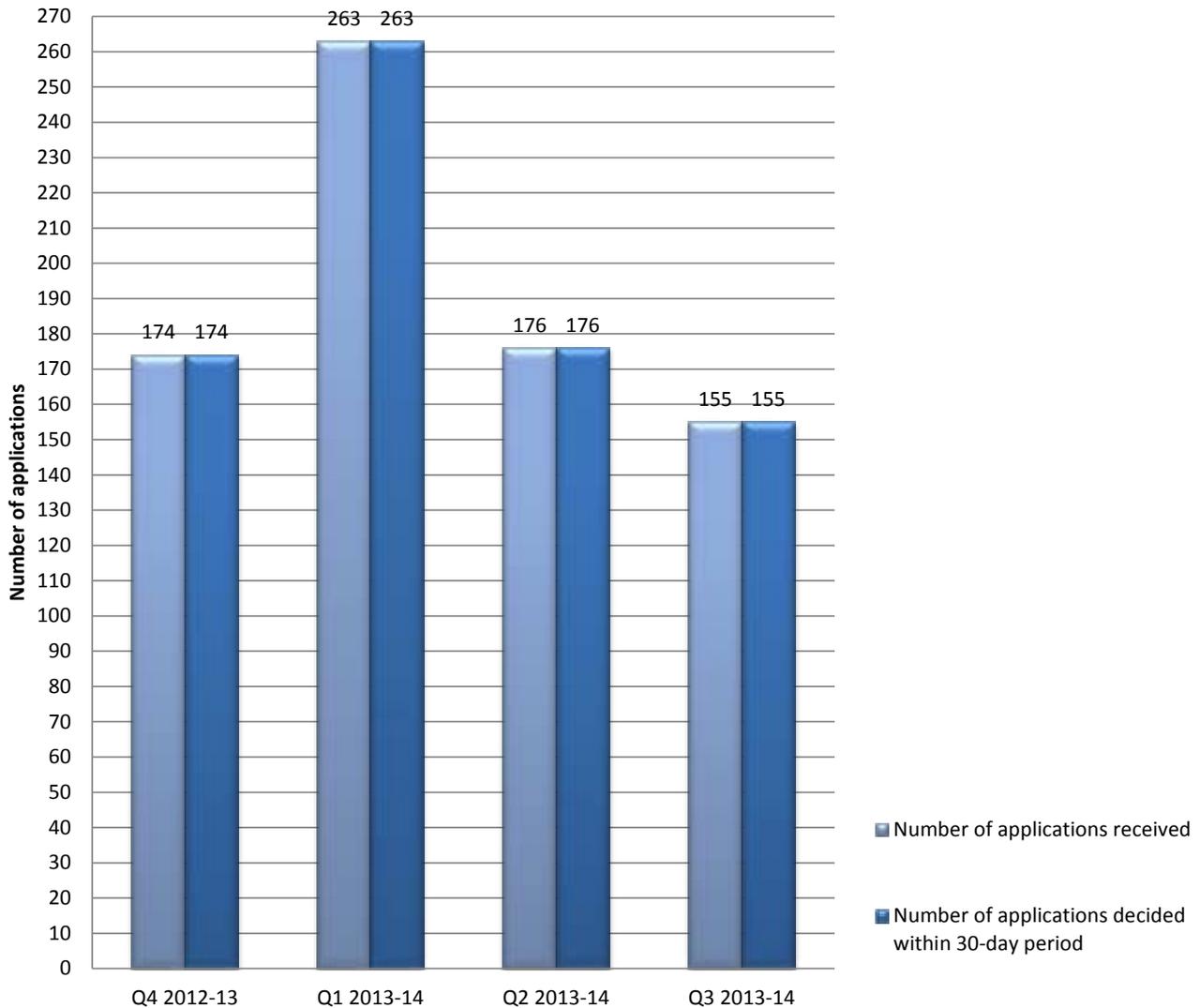
*Target time frame = 80% of works approvals decided in 60 working days.

Figure 1.4. Other project licences



*Target time frame = 80% of licences decided in 60 working days.

Figure 1.5. Controlled waste licence applications



Controlled waste regulation

DER assesses applications for new controlled waste carrier, vehicle, and driver licences. Figure 1.5 shows the numbers of new licence applications decided since Quarter 4 2012–13.

DER has a target to decide 100 per cent of all new licence applications within the 30-day statutory time frame.

During Quarter 3 2013–14, DER continued to achieve its target, with 100 per cent of the 155 applications received decided within the 30-day statutory time frame.

2. Environmental compliance

2.1 Introduction

DER's proactive industry regulation compliance activities are coordinated through its annual Industry Regulation Compliance program (the program).

The 2013–14 program commenced on 1 July 2013 and incorporates the four compliance streams outlined in table 2.1.

Table 2.1. Compliance streams

Program	Scope
Regional prescribed premises compliance program	Assessing compliance with Part V of the <i>Environmental Protection Act 1986</i> (the Act).
Controlled waste compliance program	Assessing compliance with the <i>Environmental Protection (Controlled Waste) Regulations 2004</i> .
Industry sector compliance program	Assessing compliance with various regulations administered by DER.
Special risk compliance program	Addressing risks presented by industries operating outside the Act.

2.2 Performance

Figure 2.1. Proactive compliance inspections over the previous four quarters

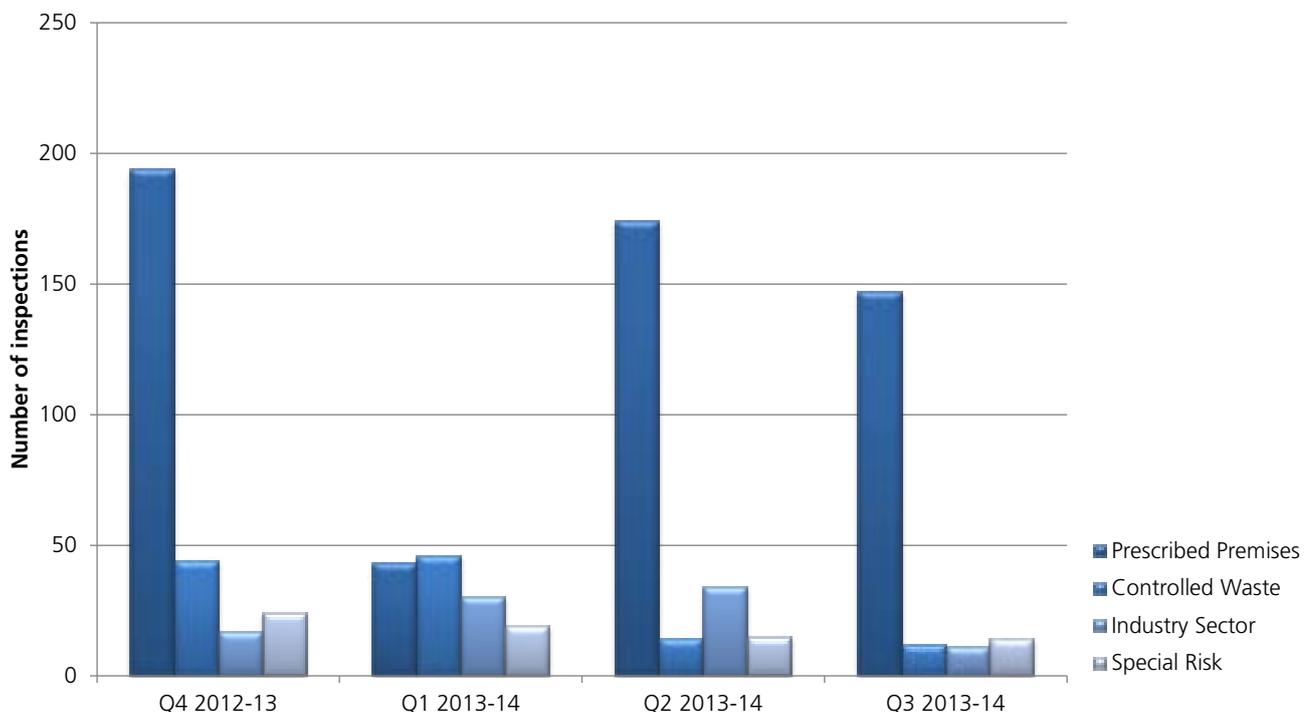


Figure 2.1 shows that all four compliance streams were progressing well at the end of the third quarter of 2013–14; a breakdown of the compliance program results for the quarter is outlined in the following sections.

Environmental compliance

Progress report—Industry Regulation compliance program 2013–14

A total of 771 proactive inspections are planned for the 2013–14 program.

A summary of the proactive inspections undertaken to date is outlined in table 2.2 below.

Table 2.2. Industry regulation compliance program 2013–14

		2013–14 Inspection —Target ²	2013–14 Inspection —Actual	% Achieved
Regional prescribed premises compliance program	Prescribed premises inspections	507	371	73
Controlled waste compliance program	General inspections	80	52	65
	Controlled waste disposal sites	10	10	100
	Targeted controlled waste industries	25	8	32
	Total	115	70	61
Industry sector compliance program	Packaged fertiliser	20	20	100
	Asbestos management in construction and demolition (C&D) recycling facilities	14	13	93
	Bulk port facilities (over the next two years compliance program)	26*	26	100
	Cattle feedlots	17	11	65
	Environmental scans of regional industrial areas	20	5	25
	Total	97	75	77
Special risk compliance program	Total	52	48	92
2013-14 Program progress as at 31 March 2014		771	564	73

* Desktop audits of ports to prepare for inspections commencing in 2014-15

Regional prescribed premises program

The regional prescribed premises program sets inspection targets for DER's prescribed premises across the state (excluding registered premises).

For the 2013–14 period DER has completed 73 per cent of planned inspections.

Controlled waste compliance program

The purpose of the *Environmental Protection (Controlled Waste) Regulations 2004* (the CW Regulations) is to ensure the safe and authorised transportation of controlled waste on public roads in Western Australia. The CW Regulations

² Since the previous quarter 2013–14, 35 inspections have been removed from the program due to licences becoming inactive during the reporting period, and inspections of abrasive blasting and metal coating operators deferred pending finalisation of guidelines for this industry.

place obligations on controlled waste generators, carriers, drivers and disposal sites, with the compliance program focusing on these obligations.

For the 2013–14 period DER has undertaken 61 per cent of planned controlled waste inspections.

Industry sector compliance program

Packaged fertiliser compliance program

The *Environmental Protection (Packaged Fertiliser) Regulations 2010* (the PF Regulations) came into effect on 1 January 2011 and placed obligations on packaged fertiliser manufacturers and retailers to limit the amount of nitrogen and phosphorus contained in garden, lawn and all-purpose fertilisers in packages of less than 50 kilograms throughout Western Australia.

A target of 20 inspections of retail outlets selling the fertiliser products was set for the 2013–14 program, of which 100 per cent was achieved in the first quarter of the program. DER is engaging with manufacturers of non-compliant product identified during these inspections to ensure compliance with the PF Regulations.

Asbestos management in construction and demolition (C&D) waste compliance program

The guidelines for managing asbestos at construction and demolition waste recycling facilities were released on 18 December 2012, and outline procedures to manage the risk of asbestos contamination of feedstock and products at C&D waste recycling facilities.

The guidelines are applicable to any premises licensed under Schedule 1 of the *Environmental Protection Regulations 1987* that accepts, stores and/or processes C&D waste. Typically these are premises falling into the following categories:

- Category 13—Crushing of building material: premises on which waste building or demolition material is crushed or cleaned.
- Category 62—Solid waste depot: premises on which solid waste is stored, or sorted, pending final disposal or re-use.

Category 13 asbestos guidelines compliance program: The asbestos management in the C&D waste compliance program commenced in January 2013. Initially, licences for 17 facilities were amended to include conditions requiring phased compliance with the guidelines. One of the premises subsequently removed Category 13 from their licence, leaving 16 premises in total.

The amended conditions include the submission of an assessment report, which assesses the operations at the facilities against the provisions of the guidelines and, where gaps in compliance with the guidelines are identified, provides an environmental improvement plan. This is the first step in the compliance management process,

DER then approves the plan and monitors its implementation over a set period of time.

Following implementation of the plan, the premises is reinspected and compliance with the guidelines is assessed.

DER has assessed submissions provided by Category 13 licensees, as required by their amended licences, and has undertaken site audits of each premises to verify that the licensees are operating in line with the guidelines (refer Table 2.3).

DER is continuing to work with licensees who have not yet achieved compliance with the guidelines. It is anticipated that the compliance program will be completed by the end of the fourth quarter, 2013–14.

Under section 4.3 of the guidelines, licensees who can demonstrate to DER that they have achieved a continuous six-month period of compliance with the guidelines, may submit a request to DER for a reduced sampling rate of recycled product produced at the premises. To date DER has received one application for a reduced sampling rate.

Table 2.3. Asbestos management at C&D waste recycling facilities 2013–14

Scope	No. Licensees
Category 13 licences amended	16
Category 13 removed from licences	4
Environmental improvement plans required, received and approved	16
Compliant licensees	13
Licensees inspected but not yet compliant	2
Licensees not yet inspected	1

Category 62 asbestos guidelines compliance program: This program commenced in November 2013 and is similar to the Category 13 program in that all Category 62 prescribed premises licences are progressively being amended to include improvement conditions, requiring the preparation and submission of an asbestos management plan consistent with the procedures outlined in the guidelines.

DER is currently engaging with applicable licensees to ensure the asbestos management plans are appropriate and consistent with the asbestos guidelines.

Bulk port facilities compliance program

The bulk port facilities compliance program is planned for the 2013–14 and 2014–15 financial years. DER has undertaken desktop audits of each port, including the collection of background data and information pertaining to imports, exports, wastes produced and materials stored at the ports.

Following collation of this information, inspections of port facilities will commence in the 2014–15 financial year.

Cattle feedlots

Cattle feedlot facilities with 500 or more animals are prescribed premises within category 1 or 68 as outlined below:

Category 1—premises on which the watering and feeding of cattle occurs, being premises—

- (a) situated less than 100 metres from a watercourse; and
- (b) on which the number of cattle per hectare exceeds 50.

Category 68—premises on which the watering and feeding of cattle occurs, being premises—

- (c) situated 100 metres or more from a watercourse; and
- (d) on which the number of cattle per hectare exceeds 50.

The purpose of the cattle feedlot compliance program is to ascertain the current level of compliance against the National Beef Feedlot Environmental Code of Practice and National Guidelines for Beef Cattle Feedlots in Australia.

Category 68 prescribed premises registrations were targeted as part of the compliance program with 11 environmental scans undertaken in this quarter.

Environmental scans of regional industrial areas compliance program

This program has been established to assess industrial premises across regional areas against the general provisions of the *Environmental Protection Act 1986* and any subsidiary legislation, and promote improvements in general environmental management practices. Five environmental scans for the 2013–14 period have been undertaken.

Special risk inspection program

The special risk inspection program is undertaken by DER's pollution response officers.

Ninety-two per cent of inspections for the 2013–14 period have been undertaken to date.

3. Native vegetation clearing permits

3.1 Introduction

Clearing provisions

Clearing of native vegetation requires a permit unless an exemption applies.

Under section 20 of the *Environmental Protection Act 1986* (EP Act), the Chief Executive Officer (CEO) of DER has delegated decision-making on clearing applications to the Department of Mines and Petroleum (DMP) for the following activities:

- an activity under an authority granted, or a requirement imposed, under the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* or the *Petroleum (Submerged Lands) Act 1982*
- an activity under a government agreement administered by the Department of State Development.

DER's clearing permit system database records details of all clearing permit applications and decisions made for both DER and DMP, and forms the basis of the published records available on DER's website.

The quantitative information presented in the tables in this report is provided for both DER and DMP. The qualitative information in the text provides information on DER only.

Further information on the clearing provisions is available at www.der.wa.gov.au/nvp.

Time frames

Target time frames are 80 per cent of applications to be decided within 60 calendar days of receipt, with a decision on the remaining 20 per cent within 90 calendar days.

The time frame commences from the date an application is received and ends on the day a decision is made, excluding the time in 'stop the clock'.

'Stop the clock' may only be used where there is legislative power or requirement to do so, as outlined under the section 'Clearing permits'.

A 'decision made' means an application to clear has been granted, given an undertaking to grant, refused, declined, withdrawn, amended, revoked or suspended.

3.2 Performance

Delivery status

In the first five years of the clearing provisions being contained in the EP Act, the total number of permit applications received annually was consistent at about 600.

The number of applications steadily increased over the next three financial years with 689 applications received during 2009–10, 758 applications in 2010–11 and 833 applications in 2011–12. There was a decrease in the number of applications received in 2012–13, to 752 applications.

DER received 115 clearing permit applications this quarter.

The number of open applications at the end of this quarter decreased to 130, compared to 135 at the end of the previous quarter and 157 at the same time last year.

During this quarter, DER made 117 decisions on applications, which is lower than previous quarter's figure of 140 decisions.

The average time frame to make a decision was 52 days, which is consistent with previous quarters. Of the 117 decisions made on applications, 84 clearing permits were granted within an average time frame of 52 days. Four applications for a clearing permit were refused. Of the remaining applications, 25 were withdrawn and four declined as the applications were not valid.

The ongoing relatively timely delivery of decisions on average corresponds to the risk-based approach to assessments that is based on sensitivity of the environment, magnitude of impact/s and urgency of the clearing, ongoing monitoring of performance, and continual improvements to processes.

Native vegetation clearing permits

Overall, DER did not meet its target time frames this quarter, with 61 per cent of decisions made within 60 days, 33 per cent within 90 days and six per cent taking longer than 90 days.

Six applications did not meet the 90-day target time frame. Two applications were finalised

within 100 days, one within 115 days and three within 150 days. These applications required modifications and further information during the assessment process.

DER is working to improve its performance in deciding clearing permit applications.

Figure 3.1. Number of decisions made by DER and DMP in the previous four quarters

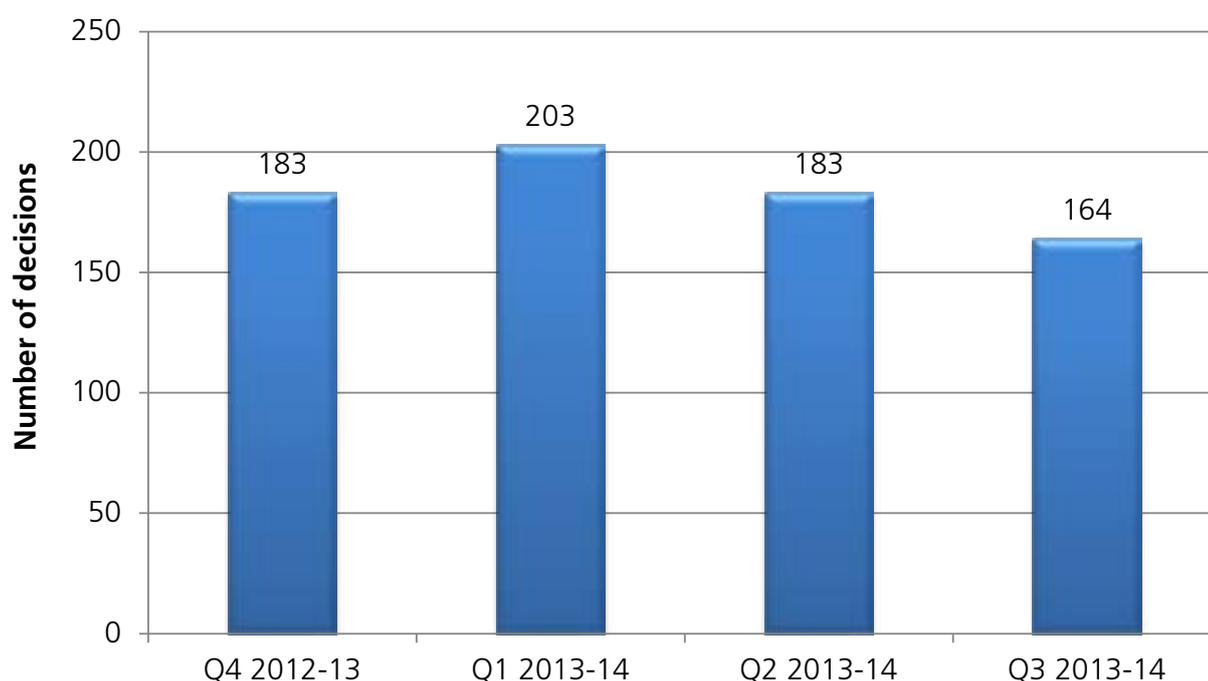


Table 3.1. Number of decisions made in Quarter 3 by DER and DMP by purpose

Purpose	Number of decisions made Q3 2013–14				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	37	9	0	0	46
Local government	17	10	2	1	30
Utilities	6	0	0	0	6
Agriculture / horticulture / forestry	8	8	1	1	18
Basic raw materials	7	4	0	0	11
Other development	37	14	1	1	53
Total	112	45	4	3	164

Native vegetation clearing permits

Table 3.2. Description of clearing purpose

Purpose	Description
State development	Clearing for purposes of mineral production, mineral exploration, petroleum production, petroleum exploration (for applications administered by DER and DMP) and other state development (including state agreements) administered under delegation by DMP.
Local government	All clearing by local government authorities. This could include purposes such as road construction and maintenance, building or structures and other infrastructure.
Utilities	Clearing by utilities including Water Corporation, Western Power, Horizon, Main Roads Western Australia, Verve Energy, Telstra, Alinta, Westnet Rail and the Public Transport Authority. This could include purposes such as infrastructure construction and maintenance, railway construction, road construction and maintenance.
Agriculture/ horticulture/forestry	Clearing for the purposes of timber harvesting, plantation, horticulture, grazing and pasture, cropping, drainage, pastoral diversification and aquaculture.
Basic raw materials	Clearing for the purposes of extractive industry (e.g. sand and gravel extraction).
Other development	All other purposes not listed above, including buildings or structures, industrial, landscaping, fire hazard reduction, geotechnical investigations and fence line maintenance.

Clearing permits

Tables 3.3 and 3.4 on the following pages show the number of decisions that have been made on clearing permit applications by DER and DMP, including the percentage of applications that were decided within target time frames.

Statistics are given on how many decisions were subject to 'stop the clock', and the mean time (in days) that applications were in 'stop the clock'.

'Stop the clock' may only be used where there is a legislative power or requirement to do so as follows:

Waiting on applicant

This status is assigned when an initial assessment has been undertaken and, based on the outcome of assessment, significant environmental or planning issues have been raised such that before making a decision the CEO requires further information under section 51E(1)(d) of the EP Act. This includes where the CEO advises the applicant that he or she requires evidence of planning or

other relevant approvals before making the final decision.

This status is also assigned when the applicant requests in writing the process to be put on hold.

Decision pending

This status is assigned when the CEO, based on an initial assessment, considers that the application raises such significant environmental, planning or other relevant issues, that it is likely to be refused. The CEO provides an opportunity for the applicant to respond for a period of at least 30 days in accordance with principles of natural justice.

Referred to Environmental Protection Authority (EPA)

This status is assigned when DER/DMP have been notified by the EPA that a proposal has been referred and that it is constrained from making a decision that could implement the proposal or a related proposal under sections 41 and/or 51F of the EP Act.

Native vegetation clearing permits

Table 3.3. Time frame data for DER applications/decisions

CATEGORY—DER	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
No. of applications carried over from previous periods	157	162	171	132*
No. of applications received	135	146	104	115
No. of decisions that were subject to 'stop the clock'	62	64	61	73
Average time in 'stop the clock' for decisions in days	75	149	111	126
Average time for decision in days (excluding time in 'stop the clock')	49	53	54	52
No. decisions on applications	126	138	140	117
No. of outstanding applications at end of quarter	166	170	135	130
Percentage of applications that were finalised within benchmark time frame:				
60 days (80% of applications finalised)	60	53	60	61
90 days (100% of applications finalised)	36	43	37	33
>90 days	4	4	3	6

* This figure is not the same as the previous reporting period due to data correction occurring for Q2 2013–14 period.

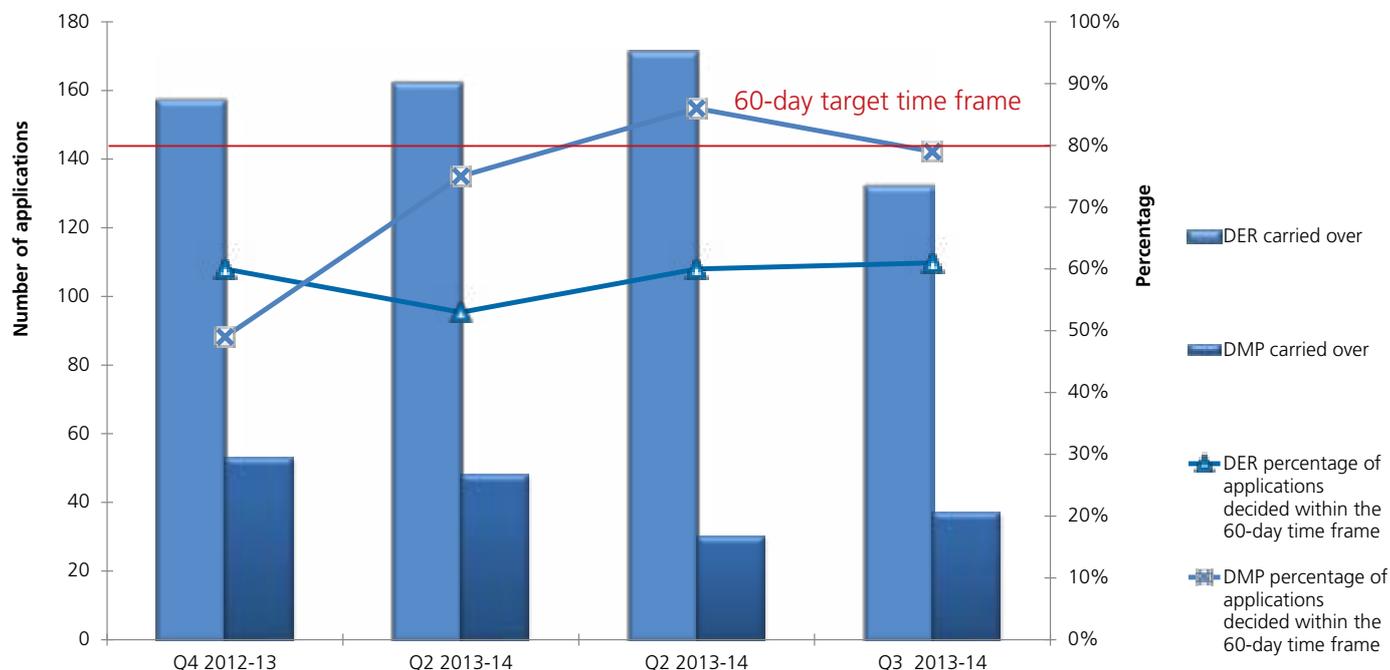
Table 3.4. Time frame data for DMP applications/decisions

CATEGORY—DMP	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
No. of applications carried over from previous periods	53	48	30	37*
No. of applications received	51	48	44	47
No. of decisions that were subject to 'stop the clock'	6	33	26	25
Average time in 'stop the clock' for decisions in days	139	37	34	16
Average time for decision in days (excluding time in 'stop the clock')	68	57	48	39
No. decisions on applications	57	65	43	47
No. of outstanding applications at end of quarter	47	31	31	37
Percentage of applications that were finalised within benchmark time frame:				
60 days (80% of applications finalised)	49	75	86	79
90 days (100% of applications finalised)	33	15	12	21
>90 days	18	10	2	0

* This figure is not the same as the previous reporting period due to data correction occurring for Q2 2013–14 period.

Native vegetation clearing permits

Figure 3.2. Number of decisions made compared to target time frames in the previous four quarters



* Target time frame = 80% of clearing permit applications in 60 working days (remaining 20% in 90 calendar days)

Table 3.5. Decisions subject to 'stop the clock'*

'Stop the clock' decisions	DMP		DER		Overall	
	Number of decisions	Average days per decision	Number of decisions	Average days per decision	Number of decisions	Average days per decision
Total/average	25	16	73	126	98	98

* The total/average values in Table 3.5 may not match the total/average values shown in Table 3.6. because a 'decision' may be the subject of more than one reason for an incident of 'stop the clock'.

Native vegetation clearing permits

Figure 3.3. Average time in 'stop the clock' in the previous four quarters

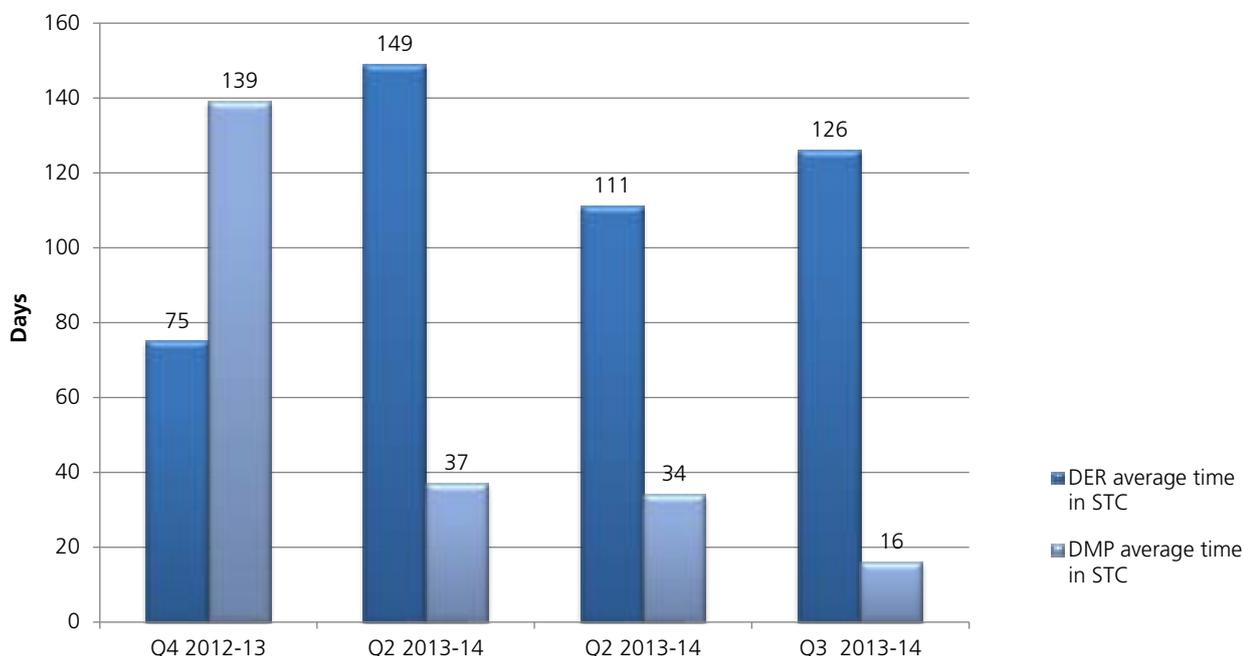


Table 3.6. Breakdown of reasons for 'stop the clock' by number of incidents, and average days per incident*

'Stop the clock' reasons	DMP		DER		Overall	
	Number of decisions	Average days per decision	Number of decisions	Average days per decision	Number of decisions	Average days per decision
Waiting on applicant	25	16	53	100	78	73
Decision pending	0	0	23	165	23	165
Referred to EPA	0	0	2	50	2	50
Total/average	25	16	78	118	103	93

* The total/average values in Table 3.6 may not match the total/average values shown in Table 3.5. because a 'decision' may be the subject of more than one reason for an incident of 'stop the clock'.

4. Contaminated sites

4.1 Introduction

Under the *Contaminated Sites Act 2003* (the CS Act), DER classifies 'known or suspected contaminated sites' reported to it, in consultation with the Department of Health (DoH).

The CS Act commenced on 1 December 2006 and introduced mandatory reporting of 'known or suspected contaminated sites'. Owners and occupiers of such sites, any person who caused or contributed to the contamination, and contaminated sites auditors engaged to report on such sites have a duty to report known contaminated sites within 21 days, and suspected contaminated sites as soon as practicable.

As a transitional provision, the CS Act provided a six-month 'period of grace' from its commencement, during which penalties for not reporting within the required time frames did not apply. This 'period of grace' for reporting historical sites expired on 31 May 2007.

By 31 March 2014, DER had received 3,430 reports of known or suspected contaminated sites (also referred to as 'Form 1s') since the CS Act commenced. Of the total number of reports, 58 per cent were received over the three-month period April to June 2007. Reporting of sites continues with an average of 13 reports being received each month.

After receiving a report of a 'known or suspected contaminated site' DER, in consultation with DoH, assigns one of seven possible classifications (set out in Schedule 1 of the CS Act) to the site based on the risk the contamination poses to human health and the environment.

4.2 Performance

Thirty-one sites were reported in quarter 3 2013–14 (see Table 4.1 and Figure 4.1).

By 31 March 2014, a total of 2,731 sites had been classified (made up of 18,898 individual lots or land parcels) under the CS Act (see Figure 4.2).

A total of 101 sites were classified in Quarter 3 2013–14.

Under the CS Act, sites must be classified within 45 days of receiving the report, unless there are particular circumstances that make it necessary to extend the time.

The most common reason DER extends the classification time frame is because the proponent requests it and informs DER that investigation of the site is underway, but the resulting technical report (which will inform the appropriate classification category) is not yet complete.

If DER decides to extend the classification time frame, DER must give written notice of its decision, within 45 days of receiving the report, to all parties who must be notified of the site classification (that is, owners and occupiers of the site, relevant public authorities such as the Western Australian Planning Commission and local government authority, the person who reported the site, each person who may be responsible for remediation and any other person whom there is particular reason to notify).

Due to the very large peak in the number of sites reported over the period April to June 2007, the former Department of Environment and Conservation (DEC) was unable to classify all the 'peak period' sites within the statutory 45-day time frame, and it is likely to take a number of years to process this backlog.

DEC prioritised classification of the 'peak period' sites, based on a screening review of the information submitted. Priority was accorded to sites where the available information indicated there may be an immediate or serious risk to human health or the environment that was not being appropriately managed.

Table 4.1. Form 1s processed by quarter

Quarter	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
Carried forward from previous quarter	9	9	18	23
New Form 1s received	27	41	49	31
Processed within statutory 45 days	27	32	44	45
Open at end of quarter*	9	18	23	9
Exceeding statutory 45 days	0	0	0	0

* Form 1s received in the last four weeks of quarter still within statutory 45 days, which will be processed in the next quarter.

Mandatory auditor's reports

Mandatory auditor's reports (MARs) are required under the CS Act for some sites. For example, MARs may be required where a site is a source of contamination that has moved off-site to affect other properties, or if a site is subject to a regulatory notice, or investigation and remediation is conducted to comply with a planning or Ministerial condition.

Some MARs are reviewed only by DER (apart from routine consultation with DoH as part of the classification process). For other MARs, DER requires specialist technical advice from other agencies before processing of the MAR can be completed (for example, where asbestos or radiological contamination is present, or where a quantitative human health risk assessment was undertaken).

DER received six MARs in the third quarter 2013–14 and three MARs were processed (one MAR

remains under review and two were awaiting information from the proponent). In addition, six MARs carried forward from the previous reporting period were processed, bringing the total number of MARs processed within this period to nine.

The average processing time for all MARs completed during this reporting period was 31 days, exceeding DER's 21-day target (three weeks).

The average processing time for MARs reviewed by DER only was 26 days (see Table 4.2). This is higher than the average processing time reported in the second quarter 2013–14 of 15 days due to additional time taken for the review of one MAR relating to a complex former industrial site in Bayswater, in order to provide advice to the Office of the Environmental Protection Authority in relation to compliance with Ministerial conditions applied under section 45(5) of the *Environmental Protection Act 1986*.

Table 4.2. MAR review performance by quarter

	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
MARs received	12	10	15	6
MAR reviews completed	10	10	11	9
MARs carried forward	5	5	9	6
Average processing time (days)	26	24	36	31
MARs processed by DER only	3	7	4	6
Average time for MARs processed by DER only (days)	15	18	15	26

Contaminated sites

Figure 4.1. Number of sites reported and classified each period

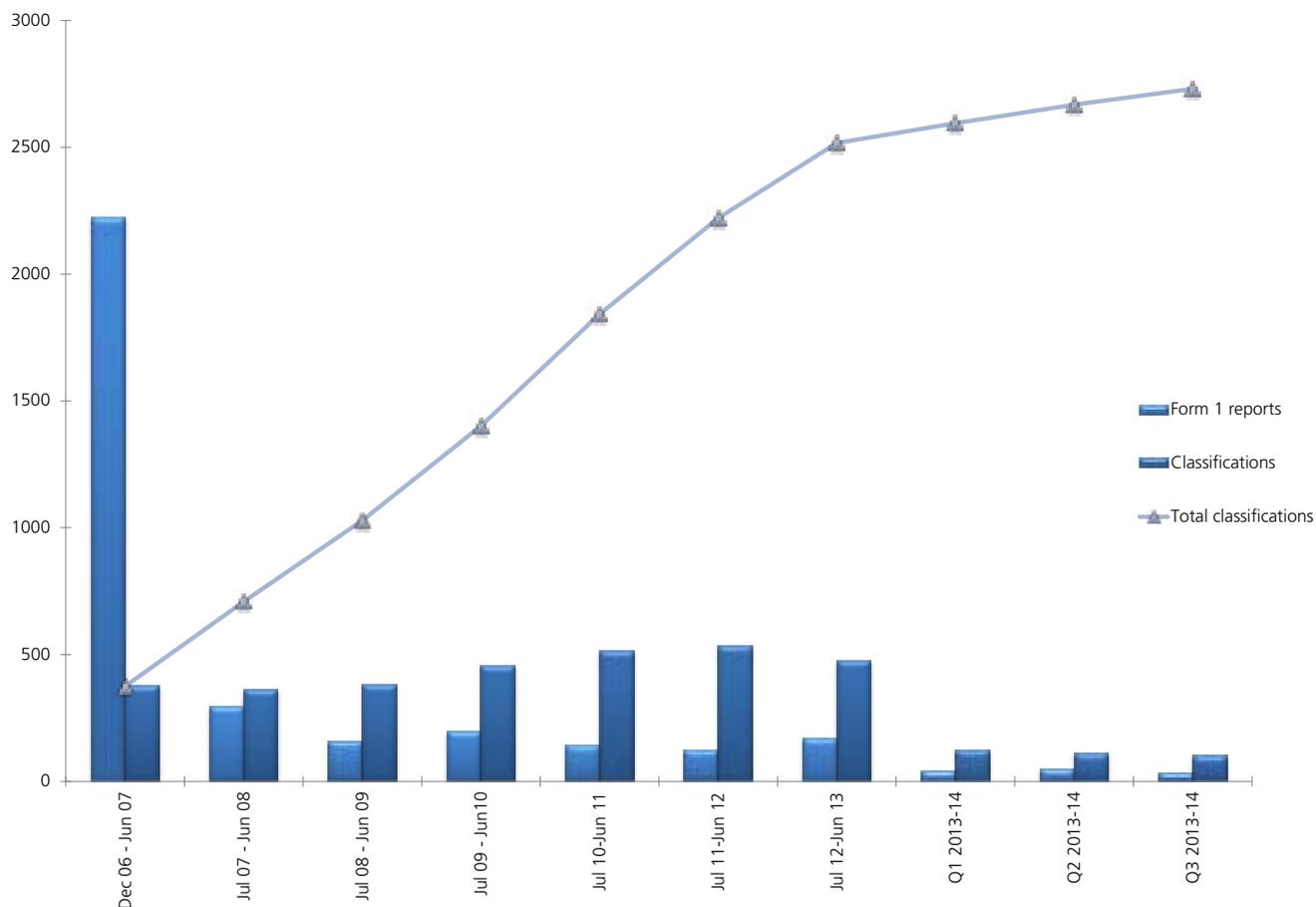
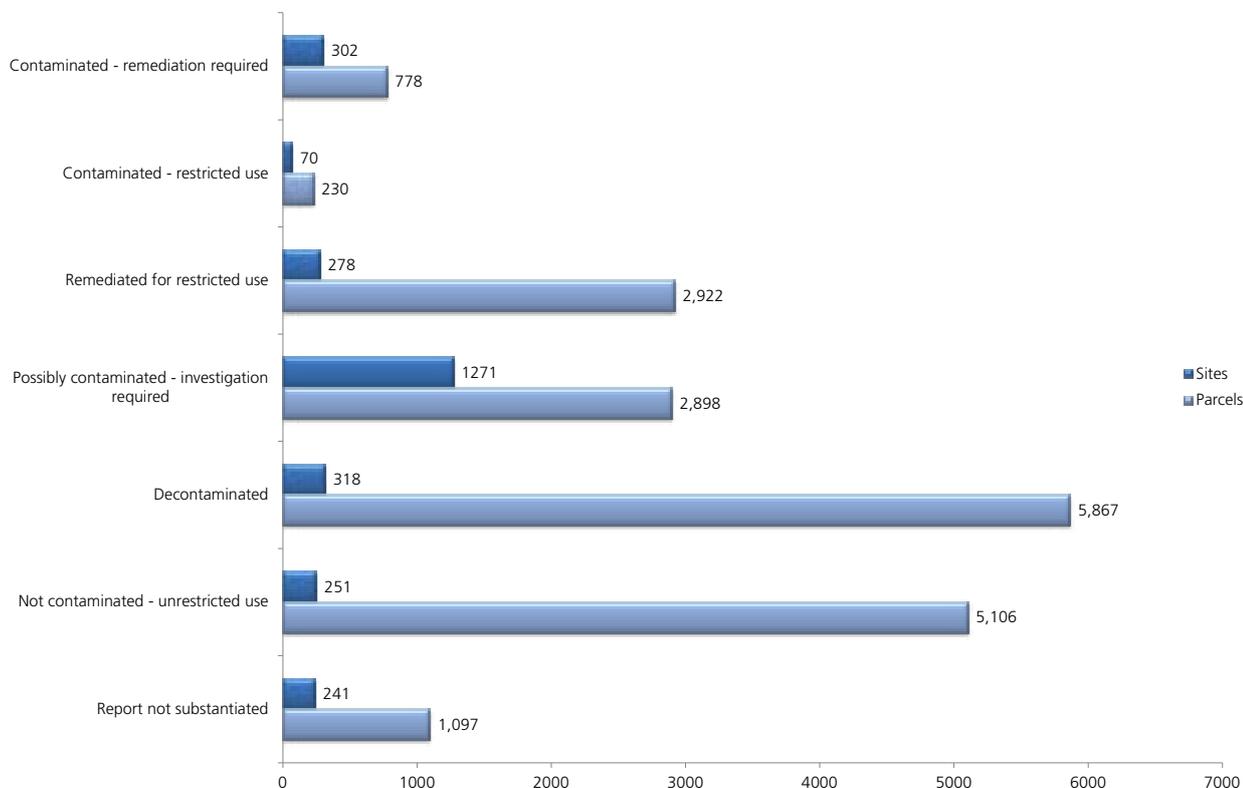


Figure 4.1 shows the number of sites reported and classified each financial year until June 2013, and quarterly since July 2013, as well as the steady increase in the total number of classified sites at the end of each period.

Contaminated sites

Figure 4.2. Distribution at 31 March 2014 of classified sites and parcels across the seven classification categories.



5. Environmental enforcement

5.1 Introduction

This section summarises the performance of DER in delivering its role of regulator enforcing Western Australia's major environmental legislation: the *Environmental Protection Act 1986*, *Contaminated Sites Act 2003*, and *Waste Avoidance and Resource Recovery Act 2007*.

The statistical data appearing in this section are obtained from DER's Incident and Complaint Management System (ICMS), a tool designed to record complaints and incidents and provide a case management framework through which investigations are conducted, and enforcement outcomes are decided.

An enforcement action is an activity undertaken by DER during the investigation process. Enforcement actions include enforcement sanctions, emails, further investigations, letters, licence reviews, phone calls, prescribed actions, provision of advice, site inspections and site visits.

The information presented in this section is a summary prepared from more detailed reports. If required, more detailed information may be made available through DER's Environmental Enforcement Senior Analyst.

Note: The categorisation of complaints and incidents is under review. Categories and sub-categories of matters will vary from previous reports. A complaint is a report made to DER by a member of the public of an environmental event. This includes events such as strong odours, high amounts of smoke, noise pollution, illegal dumping or fish-kill in a waterway.

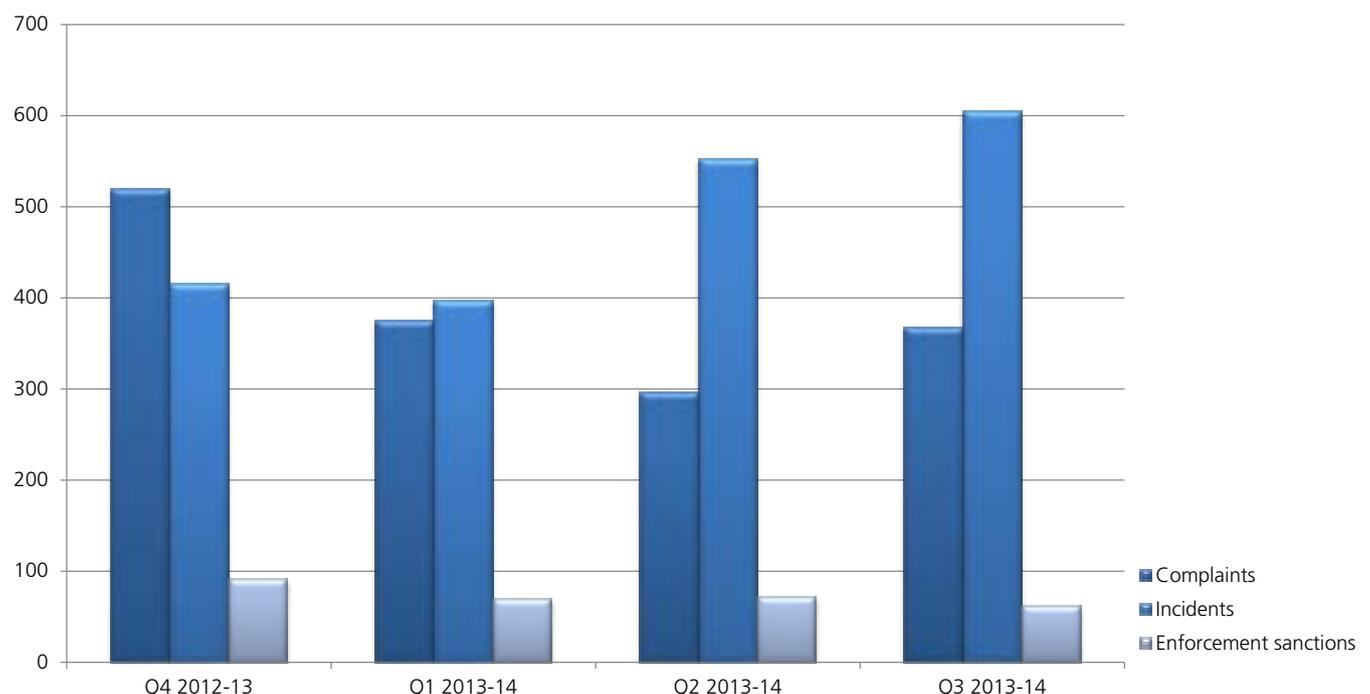
5.2 Performance

Table 5.1. Environmental complaints / incidents by DER region

REGION	Q4 2012–13	Q1 2013–14	Q2 2013–14	Q3 2013–14
Christmas Island	2 / 2	1 / 10	1 / 6	1 / 5
Cocos (Keeling) Islands	0 / 0	0 / 2	0 / 0	0 / 2
Goldfields	6 / 74	5 / 57	3 / 55	9 / 102
Kimberley	6 / 15	4 / 8	2 / 45	4 / 8
Midwest	7 / 11	10 / 21	8 / 40	4 / 30
Perth	78 / 72	114 / 141	81 / 125	84 / 125
Pilbara	11 / 38	6 / 30	5 / 38	8 / 70
South Coast	20 / 49	21 / 34	19 / 54	22 / 106
South West	18 / 14	21 / 19	10 / 76	11 / 31
Swan	328 / 44	161 / 37	162 / 109	222 / 65
Warren	5 / 6	0 / 5	-*	-*
Wheatbelt	8 / 58	10 / 11	5 / 5	3 / 61
TOTAL	489 / 383	356 / 372	296 / 553	368 / 605

* Following the establishment of DER on 1 July 2013 the figure for the former Warren region is reported under the South Coast region.

Figure 5.1. Analysis—complaints, incidents and sanctions over previous four quarters



Environmental enforcement

Table 5.2. Environmental complaints/incidents reported by sub-category, Q3 2013–14

Category	Complaints received	Enforcement actions undertaken
Clearing of native vegetation	28	7
Burning	0	
Cutting	25	
Draining	1	
Grazing	0	
Poisoning	1	
Unspecified	1	
Compliance activity	437	19
Clearing permit	2	
Industry licence	380	
Industry registration	34	
Landfill levy	0	
Proactive compliance	13	
Statutory notice	0	
Works approval	3	
Unspecified	5	
Contaminated sites	6	2
Controlled waste	7	0
Disposal site	2	
Unauthorised disposal	4	
Unauthorised transport	1	
Waste generator	0	
Unspecified	0	
Emission	425	34
Air quality	13	
Dumping waste	19	
Dust	57	
Hazardous material	23	
Light	0	
Liquid waste	49	
Noise	25	
Odour	152	
Pesticide	1	
Smoke	8	
Solid waste	1	
Unauthorised discharge	46	
Unspecified	31	
Threat/Aggression/Assault	1	0
Risk rating: Moderate	1	
Unspecified	0	
Other	54	0
TOTAL	958	62

Environmental enforcement

Figure 5.2. Complaints by DER region, Q3 2013–14

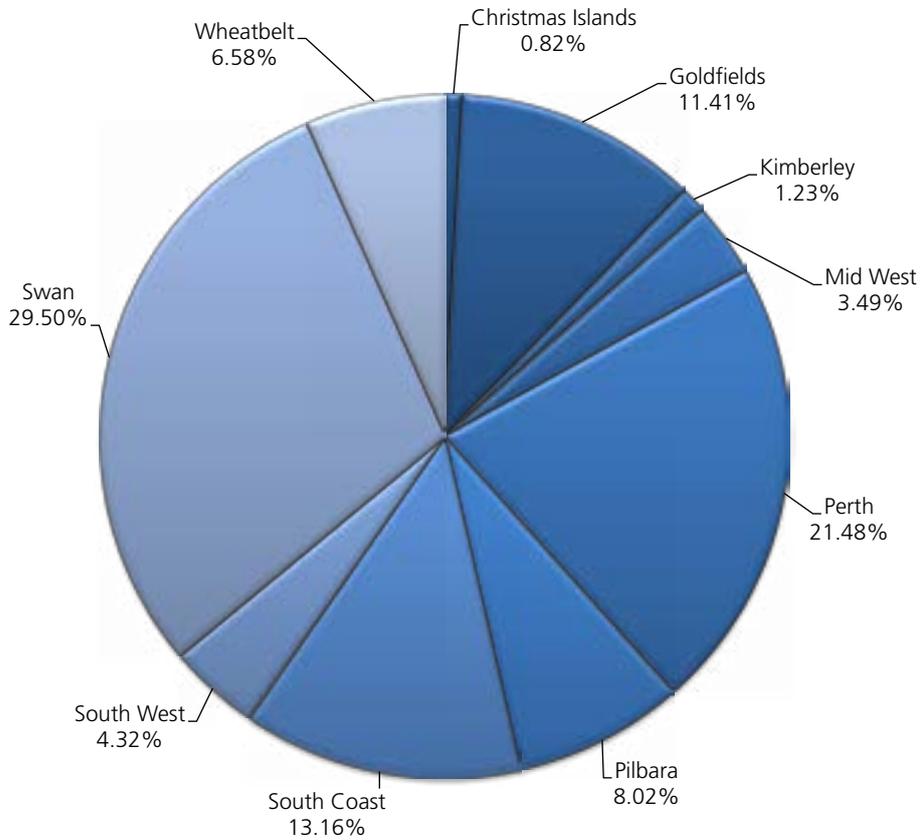


Figure 5.3. Complaints as percentages, Q3 2013–14

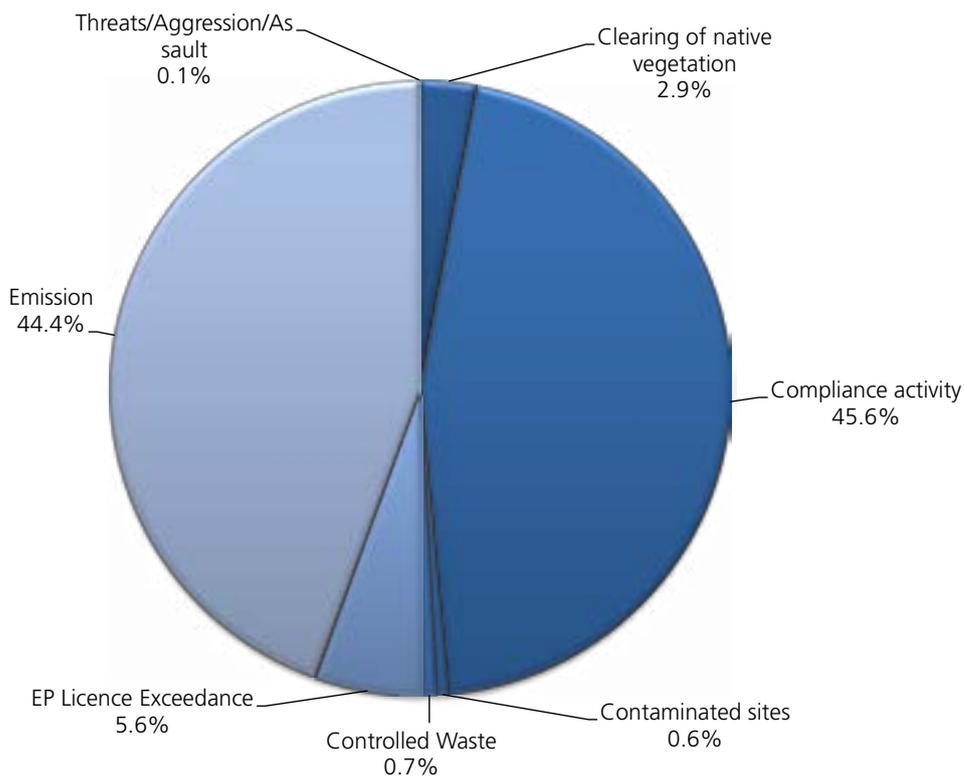


Table 5.3. Enforcement sanctions undertaken in the previous four quarters¹

Type of action	Q4 2012–13	Q1 2012–13	Q2 2013–14	Q3 2013–14
Environmental field notice (EFN) ²	46	41	42	37
Environmental protection notice (EPN) ³	1	1	1	0
Infringement notices ⁴	27	5	5	4
Stop work order ⁵	0	0	0	0
Letter of education ⁶	28	14	12	8
Letter of warning ⁷	15	10	12	11
Statutory direction/notice ⁸	1	1	0	2
Modified penalty ⁹	0	0	0	0
Prosecutions ¹⁰	1	3	4	3

¹ Quarterly breakdown reflects the sanctions undertaken by the end of each quarter, on matters received during the quarter.

² An environmental field notice is a non-statutory written notice of an offence. An EFN instructs the recipient to take immediate remedial actions.

³ An environmental protection notice is a statutory notice issued pursuant to section 65 of the *Environmental Protection Act 1986*.

⁴ An infringement notice is a modified penalty for an alleged offence requiring the payment of a fine or election to have the matter heard in court.

⁵ A stop work order is a statutory order made by the Minister pursuant to section 69 of the *Environmental Protection Act 1986*.

⁶ A letter of education is non-statutory advice to a person or business reminding them of their responsibilities under the *Environmental Protection Act 1986*.

⁷ A letter of warning is a non-statutory notice to an offender that a legislative breach has occurred and been noted on record.

⁸ A statutory direction/notice is a written direction requiring certain action be taken or ceased within a specified time; for example, a pollution prevention notice.

⁹ A modified penalty is a statutory notice that an offence has occurred and that, in the opinion of DER, the offence has met the prescribed legislative requirements to minimise and remedy the environmental impact.

¹⁰ A DER prosecution action commences when a complaint is made (or sworn) that an entity has committed an offence under the legislation.

Table 5.4. Enforcement actions undertaken by corresponding financial year quarter

Type of action	Number of actions undertaken by quarter ^{11, 12}			
	Q3 2010–11	Q3 2011–12	Q3 2012–13	Q3 2013–14
EFN	60	50	87	34
EPN	0	1	1	0
Further investigations	292	116	224	122
Infringement notices	5	5	5	4
Letter	158	190	171	252
Letter of education	11	7	21	8
Letter of warning	40	22	47	11
Licence review/amendment ¹³	16	1	3	2
Modified penalty brief	0	1	0	0
Prescribed action ¹⁴	3	3	3	2
Prosecution	1	5	3	3
Provide advice	36	12	8	4
Site inspection	163	73	226	138
Site visit	279	154	197	110
Statutory direction/notice	3	5	5	3
Stop work order	0	0	0	0
Prosecutions Q2 2013–14				
Pending prosecutions				9
Current prosecutions before court				6

¹¹ Quarters 3 for 2010–11, 2012–13 and 2012–13 include actions/sanctions undertaken by the Swan River Trust (SRT). Following machinery of government changes and the establishment of DER on 1 July 2013, Quarter 3 figures for 2013–14 do not include actions/sanctions undertaken by SRT.

¹² Emails and phone call data are no longer reported.

¹³ DER may amend or revoke an existing licence for the conservation, preservation, protection, enhancement and management of the environment.

¹⁴ A prescribed action is any physical intervention undertaken by DER to remedy a breach of legislation or when undertaking remedial action. If this occurs, the occupier or polluter may be pursued for the cost of the clean-up. Such action will be taken only where authorised by legislation and in accordance with that legislation.

Table 5.6. Native vegetation regulation activity, Q3 2013–14

Activity	Number
Vegetation conservation notice (VCN) ¹⁴	1 (42 Active)
Clearing applications	163
Clearing approvals	124
Letters of warning	8
Prosecutions	0

¹⁵ A vegetation conservation notice is a statutory notice given under section 70 of the EP Act when the CEO of DER suspects, on reasonable grounds, that unlawful clearing of native vegetation is likely to take place, is taking place, or has taken place on the land.

6. Contact details

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6.2 Quarterly reports

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