



Air Resources Board
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Enforcement Activities
for
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July 2003

Report of Enforcement Activities for 2002

Air Resources Board Enforcement Division July 2003

ACKNOWLEDGEMENTS

Primary Authors:

*Marivel De La Torre
Victor Espinosa
Paul E. Jacobs*

Contributing Authors:

*Gregory H. Binder
Darryl P. Gaslan
Steve Giorgi
Mary Rose Sullivan
Carl Brown
Judy Lewis
R.C. Smith
Les Simonson*

Reviewed by:

*Kathleen C. Walsh, General Counsel/Deputy Executive Officer, Air Resources Board**
James R. Ryden, Chief, Enforcement Division, Air Resources Board
Paul E. Jacobs, Chief, Mobile Source Enforcement Branch
Robert Leonard, Chief, Stationary Source Enforcement Branch
Chuck Beddow, Chief, Fuels & Consumer Products Enforcement Branch
Victor Espinosa, Manager, Heavy-Duty Diesel Enforcement Section-North
Darryl P. Gaslan, Manager, Heavy-Duty Diesel Enforcement Section-South
Gregory H. Binder, Manager, Mobile Source Enforcement Section
Steve Giorgi, Manager, Consumer Products Enforcement Section
Mark Stover, Manager, Fuels Enforcement Section
Carl Brown, Manager, Stationary Source Enforcement Section
*R.C. Smith, Manager, Strategic Environmental Investigations & Enforcement
Section*

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*The legal staff in the Air Resources Board's Office of Legal Affairs has also reviewed this report.

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Preface

The primary mission of the Air Resources Board (ARB, Board) is to protect public health and the environment. This is done through the adoption and implementation of regulations and programs to reduce emissions of and exposure to air pollutants from a variety of mobile and other statewide sources. Fair and effective enforcement of these far reaching efforts is critical to the successful accomplishment of this mission. This goal is reflected in the mission statement adopted by the Enforcement Division that reads as follows:

“To protect public health and the environment by maximizing reductions in emissions of air contaminants and exposure to air contaminants through the fair, consistent and comprehensive enforcement of statutory and regulatory requirements for sources of air pollution under ARB jurisdiction.”

To meet the challenges that this mission imparts, the Enforcement Division (ED) was significantly reorganized in 2001/2002. The restructuring, which was started in early 2001, was completed in August 2002. The effectiveness of the restructuring is seen in increased enforcement actions during 2002. The total number of cases opened, cases referred for further action, cases settled and penalties collected all significantly increased in 2002. The following is a partial listing of the ARB's Enforcement Program's 2002 highlights:

- ED reorganization completed, August 2002
- 1535 cases closed in 2002
- \$11, 293,173 total penalties collected in 2002
- Two significant motor vehicle case settlements totaling \$7.9 million and \$1.5 million respectively
- \$500,000 settlement for illegal use of aircraft fuels
- \$350,000 settlement for the use of non-compliant coatings
- Initiated and co-led the environmental cross-media investigation and \$45.8 million settlement of a leaking underground storage tank case
- Over 16,000 heavy-duty vehicles inspected
- Over 1600 cargo tanks inspected
- Over 283 million gallons of gasoline represented in sampling
- Over 49 million gallons of diesel fuel represented in sampling
- Over 22 thousand red-dyed diesel inspections

- Over 800 consumer product inspections

The true measure of the effectiveness of the enforcement program is the emissions reductions achieved. The Enforcement Division estimates that the enforcement actions undertaken in 2002 resulted in emissions reductions over 100 tons. We continue to work on the development of this metric of success. An additional indicator of effectiveness is the number of cases investigated and closed during each year. In 2002, 1535 cases were closed for \$11,293,173 in penalties compared to 645 cases closed in 2001 for \$2,509,725 in penalties. To provide a different perspective to how effective the enforcement program is, if you were to spread out the unusually large multi-million dollar case settlements over the number of years it takes to bring them to completion, in combination with the other settlements and penalties collected on a year-by-year basis, you would see a steady climb of collections during the past decade. To illustrate this point, in 1991 collections reached \$500,000 per year and by the mid 1990s consistently exceeded \$1 million per year. In the past few years, collections have exceeded \$2 million per year and presently collections are averaging between \$7 to \$8 million annually.

The following report includes a discussion of the enforcement programs, as well as statistics relating to inspections, investigations and activities in each of the program areas. More detailed information relating to case status and local air district enforcement activities is included in the appendices. Please note that it is the ARB's practice to keep confidential the names of entities involved in pending enforcement actions, and that this convention will be observed in any pending case summary information. Specific case settlements can be viewed at the ARB's Enforcement Program web site at www.arb.ca.gov/enf/enf.htm.

Introduction

The Air Resources Board (ARB or Board) is charged with coordinating efforts to attain and maintain health-based air quality standards statewide. The ARB is specifically directed to address the serious problem caused by motor vehicles – cars, trucks and buses, off-road vehicles and equipment, and the fuels that power them – a major source of air pollution in many parts of the state. ARB is also responsible for controlling emissions from statewide sources of air pollution including other types of mobile sources (e.g., non-road engines such as lawn and garden equipment, and utility engines) as well as consumer products. Additionally, ARB is charged with overseeing the efforts of local air pollution control and air quality management districts in controlling air pollution caused by stationary sources.

To carry out this charge, the ARB has undertaken a multifaceted program of planning, regulation, and enforcement. This is a complex process that weaves together air quality research, modeling and assessment; the development and adoption of regulations through a process that allows for public input; and program implementation through active outreach to regulators and regulated industries through training and compliance assistance. The final component – enforcement – serves to ensure that these efforts do achieve the anticipated emissions reductions and a level playing field for all participants. This report focuses on ARB's enforcement efforts – both direct enforcement and oversight of district enforcement programs.

Within the ARB, the Enforcement Division is responsible for these activities. The Enforcement Division is structured to address the various source categories: the Mobile Source Enforcement Branch keeps a watchful eye on heavy-duty vehicles including commercial diesel trucks, passenger vehicles and other light-duty on-road vehicles, off-highway vehicles, and non-road engines such as lawn and garden equipment and small utility engines; the Fuels and Consumer Products Enforcement Branch investigates and develops cases related to those sources; and the Stationary Source Enforcement Branch provides oversight of and assistance to local air district enforcement programs, and provides investigative and surveillance services to assist in the development of air quality and multi-media cases.

Integral to the success of the enforcement program in the Enforcement Division's close working relationship with ARB's Office of Legal Affairs (OLA). Division staff develops the cases, many of which are settled directly between the division and the violator, who come into compliance and pay appropriate settlement amounts in lieu of civil penalties. For cases that can not be handled through this informal process, OLA attorneys are brought in to work with the enforcement staff to negotiate settlements or prepare cases for referral for civil litigation or criminal prosecution to the Office of the Attorney General, local District Attorneys, or the U.S. Attorney's Office.

Violations of California's air quality laws and regulations span a wide gamut that extends from deliberate, criminal actions through serious, albeit accidental infractions, to nominal breaches of the state's statutes or regulations. And while

varying degrees of pollution are created by way of these violations, what remains constant in each is the unfair economic disadvantage suffered by those members of the industries that do comply. To address these varying degrees of violation and their effects on the state's health and economic welfare, the Enforcement Division of the Air Resources Board has adopted as its mission statement:

"To protect public health and the environment by maximizing reductions in emissions of air contaminants and exposure to air contaminants through the fair, consistent and comprehensive enforcement of statutory and regulatory requirements for sources of air pollution under ARB jurisdiction."

The report that follows includes a discussion of the enforcement programs currently administered by the ARB, as well as some summary statistics relating to inspections, investigations and activities in each of the programs. More detailed information relating to case status, local air district enforcement activities and other relevant information is included within the set of appendices. Please also note that it is the ARB's practice to keep confidential the names of entities involved in pending enforcement actions, and that this convention will be observed in any pending case summary information.

For more information on the ARB's Enforcement Division or its programs, please contact James R. Ryden, Chief, at (916) 322-7061 or jryden@arb.ca.gov. For questions or comments relating to this report, please contact Marivel De La Torre, Enforcement Case Coordinator at (916) 323-1362 or mdelator@arb.ca.gov. Questions relating to specific program areas may be directed to the appropriate section or branch manager, listed on the contact sheet found in Appendix F. Please also refer to the Enforcement Division's web page, located at the following link: <http://www.arb.ca.gov/enf/enf.htm>.

Mobile Source Enforcement

California has long been a world leader in combating air pollution emitted from motor vehicles and other mobile sources. Because of the state's severe air quality problems, California is the only state authorized under the Federal Clean Air Act to set its own motor vehicle emissions and fuels standards. The ARB has used this authority to establish an aggressive program to reduce emissions from millions of sources ranging from heavy-duty diesel trucks, to passenger cars, to motorcycles, jet skis, and even lawn mowers and chain saws.

The Board's Mobile Source Program is structured to ensure that vehicles (and other applicable sources, such as the small off-road engines found in lawn and garden equipment) meet California's standards from the design phase through production, from the point of sale, through the vehicle's useful life, and finally to its retirement from the fleet.

This is an intricate process, and as might be expected, there are a numerous ways that it may be, wittingly or unintentionally, subverted. To guard against the illegal entry, sale and operation of non-complying vehicles/engines within California, the Board's regulations include provisions to assure compliance, and when that fails, to initiate appropriate enforcement action. The ARB's mobile source enforcement program is administered on two fronts: heavy-duty diesel vehicle enforcement, and programs to address all other on-road and non-road mobile sources.

Heavy-Duty Diesel Vehicle Enforcement

Program Overview

The ARB, in cooperation with the California Highway Patrol (CHP), tests heavy-duty trucks and buses for excessive smoke emissions and tampering of emission control systems. Every heavy-duty vehicle traveling in California, including those registered in other states and foreign countries (i.e. Mexico or Canada) is subject to inspection and testing. Although heavy-duty vehicles comprise only two percent of California's on-road fleet, they produce about thirty percent of the oxides of nitrogen and sixty-five percent of the particulate emissions attributed to motor vehicles. The sooty exhaust emissions from these vehicles are of special concern, particularly in residential areas, because of the toxic nature of the particles found in the diesel exhaust.

To tackle the problem of excessively smoking heavy-duty diesel vehicles, the ARB conducts two companion programs: the roadside Heavy-Duty Vehicle Inspection Program (HDVIP); and the annual fleet Periodic Smoke Inspection Program (PSIP).

The HDVIP is administered by field inspection staff that perform smoke opacity tests at CHP weigh stations, random roadside locations, fleet locations, and at two California/Mexico border ports of entry (Otay Mesa and Calexico). To conduct a smoke opacity inspection, the ARB inspector selects a vehicle for testing based on a visual assessment of its exhaust opacity. With the assistance of the CHP, the vehicle is directed to the inspection area, and with the wheels chocked for safety and the transmission in neutral, the driver rapidly depresses the accelerator while an opacity meter evaluates the resulting plume of smoky exhaust. (The test protocol, SAE J1667, was developed by the Society of Automotive Engineers

specifically for this type of program.) If the smoke opacity exceeds California's standards of 55% for older vehicles and 40% for those manufactured in 1991 or later years, the driver receives a citation.

Citations carry a civil penalty of \$800 for the first offense, however \$500 of this penalty is waived if within 45 days the vehicle is repaired, set to manufacturers' specifications and is demonstrated to meet the appropriate opacity standard. Any driver or owner whose vehicle receives an additional citation within 12 months of the first issuance is assessed a penalty of \$1,800. If an older vehicle (model year prior to 1991) is found to have smoke opacity between 55% and 69%, the ARB issues a Notice of Violation (NOV) that carries no civil penalty as long as corrective action is demonstrated within 45 days; if this is not accomplished, the NOV is converted to a citation. The owner of a cited vehicle may appeal the citation through a hearing with an ARB Administrative Law Judge.

The companion PSIP requires that California fleet owners of two or more heavy-duty diesel vehicles perform an annual smoke inspection on each of their vehicles. (Vehicles with new – not rebuilt – engines that are less than four years old are exempt from annual testing.) Fleet owners are required to maintain their records for two years, and the ARB staff perform follow-up inquiries to assure that the requirements are being fulfilled (i.e., staff request to see copies of smoke test results, demonstrations of correction, etc.) Recalcitrant fleet owners are audited, their vehicles are tested and citations are issued for those vehicles that exceed opacity standards. Additionally, staff develops enforcement cases against non-compliant fleets. These cases are prosecuted by the State Attorney General's Office or local District Attorney's Office.

For 2002 enforcement statistics of these programs, please refer to Appendix C.

Program News

Focused Environmental Inspections – The ARB has participated in an on-going program of multi-environmental media vehicle inspections in mixed residential/industrial locations (i.e. Environmental Justice areas). During these events, inspection personnel from a variety of agencies (e.g., CHP, U.S. Coast Guard, Department of Toxic Substances Control, local law enforcement and hazardous materials agencies, Internal Revenue Service, etc.) assemble to examine vehicles passing through these neighborhoods to detect violations of air quality regulations, illegal transport of hazardous wastes, illegal use of tax-exempt red diesel fuel, safety concerns, and other related issues. In 2002, ARB staff conducted a number of these inspections throughout California.

California-Mexico Border Programs – The California Environmental Protection Agency, in conjunction with the ARB and the Bureau of Automotive Repair established a partnership with the City of Tijuana to develop pilot programs for light-duty and heavy-duty vehicle emissions testing. These programs, modeled after California's HDVIP and smog check programs, will set the stage to minimize vehicular emissions in the border cities.

With the forthcoming implementation of the North American Free Trade Agreement (NAFTA), it is crucial to ensure that the vehicles travelling back and forth across the border do not adversely impact air quality in either California or

Mexico. The ARB maintains full-time HDVIP inspection sites at both Otay Mesa and Calexico. The ARB met with representatives of the federal government's General Accounting Office to discuss programs currently in place that help to mitigate environmental and safety concerns related to NAFTA. The ARB also participates in periodic conference calls with the Northeast States for Coordinated Air Use Management (NESCAUM) and the Ontario, Canada-based Commission for Environmental Cooperation (CEC). The ARB, NESCAUM and CEC sponsored a conference in March of 2002 to discuss coordination issues for heavy-duty vehicle smoke emissions programs for the three North American countries. The proceedings from this conference are available on our web site at www.arb.ca.gov/enf.enf.htm

CCDET – It is important that individuals or firms that perform smoke opacity testing related to the ARB's HDVIP and PSIP, have a clear understanding of the program regulations and be able to correctly administer the SAE J1667 opacity test. To this end, the California Council on Diesel Education and Technology (CCDET) was established as a partnership between the ARB, the diesel trucking industry, and the California Community Colleges. There are currently 6 colleges within California (College of Alameda, San Joaquin Delta College, Santa Ana College, Los Angeles Trade Tech., Palomar College, and San Diego Miramar College) that offer low-cost training in the proper application of SAE J1667, as well as some smoke-related engine repairs and maintenance practices.

Enforcement Actions for PSIP – An investigation of Waste Management Collection and Recycling, Inc. in Santa Ana, determined that 43 vehicles of that fleet had not undergone the required annual smoke opacity inspections. The ARB presented this case to the Orange County District Attorney's office, who filed a consumer protection suit against the waste hauling company. The suit was settled in Orange County Superior Court in September 2001. The company was required to pay a \$75,000 penalty and bring all of its fleet vehicles into compliance with the PSIP. Currently, two additional PSIP cases are pending settlement and other cases are being developed.

Other items of interest –

- The ARB has worked with the CHP during the year to establish policies and procedures to enforce the portion of the HDVIP statutes that allows the CHP to remove a heavy-duty vehicle from service when a recalcitrant vehicle owner fails to clear a citation or notice of violation. This authority is granted to the CHP under the California Vehicle Code Section 27159. Staff will implement this out-of-service program with the CHP during 2003.
- In an on-going effort to provide the regulated community with current, accessible information regarding the smoke inspection programs, the ARB produced, in consultation with the California State Polytechnic University, Pomona, (CalPoly-Pomona) an outreach video that details the HDVIP, its operation and its benefits to air quality and fuel conservation. This video replaces an earlier production, and represents the latest relevant information. This video may be viewed on the ARB's Enforcement Program page at www.arb.ca.gov or copies may be obtained by calling ARB staff listed on Appendix F.

General Mobile Source Enforcement

Program Overview

The Air Resources Board has direct enforcement authority for all regulated mobile sources in California. For legal sale in California, all regulated mobile sources must be annually certified by their manufacturer as meeting California emission standards. The Mobile Source Enforcement Section is responsible for ensuring that all regulated mobile sources, both on-road and non-road, comply with ARB certification requirements. The ARB's enforcement program vigorously enforces these laws through inspections and investigations that result in corrective actions and substantial civil penalties.

For on-road sources, the primary focus of enforcement is to ensure that all new vehicles sold, offered for sale, or used in the state are certified for sale in California. Under California's regulations, a new vehicle – defined as a vehicle that has fewer than 7,500 odometer miles, that is not certified to California's standards cannot be sold within or imported into the state. If such a vehicle visits a Smog Check station, the owner is issued a Notice of Noncompliance (NoN) and a copy of the NoN is sent to the ARB. If the NoN is issued to a dealer or fleet, an ARB field inspector will make a follow-up visit to the dealership or fleet and issue a Notice of Violation. The NOV requires that the vehicle(s) be removed from the state along with a civil penalty of up to \$5,000 per vehicle as authorized under Health and Safety Code Section 43151 et seq. Enforcement statistics for this program may be found in Appendix C. It is worth noting that staff settled many significant cases in this area during 2002 and a discussion of these cases can be found in Appendix B.

Another area of focus for enforcement resources has been in the non-road categories. This includes off-road motorcycles and all terrain vehicles; Small Off-Road Engines (SORE) such as lawn and garden equipment - scooters - generators, Large Spark Ignition engines (LSI) which include fork lifts - sweepers - quads - generators, and Compression Ignition engines over 175bhp which include generators and construction equipment.

Program News

Aftermarket Parts Outreach -- Staff continues to develop a positive working relationship with the Specialty Equipment Marketing Association (SEMA). These efforts help to ensure that all aftermarket parts that might effect emissions or emissions control systems are issued an ARB Executive Order that allows for their legal sale in California. Mobile source enforcement staff supported information booths at both the worldwide SEMA show in Las Vegas in October 2002 and at the International Auto Salon, which is a trade show for import vehicles and parts held in Long Beach in April 2002.

Street Racing Enforcement Assistance -- Mobile source enforcement staff have provided assistance to California Highway Patrol and local law enforcement agencies throughout California in their efforts to eradicate street racing. Often the vehicles involved in these unlawful activities are equipped with illegal engine modifications and aftermarket parts which significantly impact air quality. As these types of modifications can cost thousands of dollars, citing the vehicle owners for tampering (under Vehicle Code section 27156) has proven to be a

powerful deterrent because the owner must show that the offending equipment has been removed, in addition to paying the related penalties. The ARB staff assists peace officers in writing solid tampering citations that will support resulting court cases. During 2002, the ARB staff conducted various training seminars for law enforcement personnel. Law enforcement personnel conducted hundreds of street racing strike forces resulting in the issuance of citations. These enforcement actions have had a significant impact on reducing excessive emissions from these modified vehicles.

Small Off-Road Engines (SORE) & Off-Highway Vehicles (OHVs) -- SOREs and OHVs (which include off-road motorcycles and all-terrain vehicles) continued to receive additional enforcement efforts during 2002. Mobile source enforcement staff continued to expand their enforcement program to include illegal lawn mowers, trimmers, generators, scooters, and other SORE products, and a number of cases were opened. In addition to these activities, staff supported the Mobile Source Operations Division with factory audits and assembly line confirmatory testing at SORE manufacturing facilities. Staff also initiated enforcement actions to ensure that all off-road motorcycle manufacturers and dealers introduce and sell only products that meet California certification requirements. These cases resulted in the assessment and collection of over \$327,000 in penalties and these non-complying manufacturers are now complying with the ARB's certification requirements.

Aftermarket Catalysts on On-Board Diagnostics II (OBD II) Vehicles – Staff continues its ongoing investigation program of muffler shops that install aftermarket catalytic converters (catalysts) on OBDII vehicles. Currently, there are no exempt aftermarket catalysts for OBDII applications (some are being considered for approval at this time), and enforcement actions have been initiated against shops that install illegal catalysts, with four cases opened in 2002.

Non-Certified Motorcycles and Emission Control Tampering by Dealers – Investigations have been completed against eight manufacturers of non-California certified "Harley clone" motorcycles and closed four of these cases. In 2002, a total of four settlements were finalized for over \$1 million in penalties. Three of the remaining cases have been referred to the Attorney General's office for litigation due to the egregious nature of the violations.

Fuels Enforcement

Program Overview

The Air Resources Board is authorized to set standards and adopt regulations to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources. Mobile sources of emissions are responsible for approximately 55 percent of air pollution (i.e. smog) forming emissions statewide and approximately 90 percent of the carbon monoxide emissions.

The ARB's Fuels Enforcement Program enforces motor vehicle fuels and cargo tank vapor recovery regulations. Through inspections, sampling and analysis of fuels, investigation and research into violations, and the development of cases,

the fuels enforcement staff enforces regulations specifying the composition of motor vehicle fuels and ensures compliance with cargo tank vapor recovery regulations.

Field Investigations -- One aspect of the enforcement of motor vehicle fuels is the inspection of fuels production, distribution and sales facilities statewide and the collection and analysis of fuels samples. Fuels inspectors gather samples of gasoline and diesel fuel at refineries, import facilities, bulk terminals, and service stations. The regulated fuel parameters (such as sulfur content, Reid Vapor Pressure, and benzene content) are determined through analysis at either ARB's El Monte laboratory or the Enforcement Division's mobile fuels laboratory. When a violation is discovered, a notice of violation is issued and a case is developed.

Mobile Fuels Laboratory – The new mobile fuels laboratory was placed in service in April of this year. The original laboratory, built in 1987, had reduced the turnaround time for the analyses of samples from up to two weeks to the same day the samples were collected. This efficiency allowed for the results to be obtained and if necessary, enforcement action to commence immediately. Use of the mobile fuels laboratory resulted in a significant increase in the amount of non-complying fuel removed from the marketplace prior to sale and correspondingly reduced emissions into the atmosphere.

The new mobile laboratory includes many improvements: all support systems were upgraded and new sampling equipment was added, including a Selerity supercritical fluid chromatography instrument, which analyzes olefin and diesel aromatics, a new Antek sulfur and nitrogen analyzer, and two new Petrospec screening analyzers for gasoline and diesel. The new mobile laboratory is much cleaner in its operation and was recently retrofitted with a diesel particulate filter to further reduce emissions.

Phase 3 Reformulated Gasoline -- On March 1, 1996, Phase II Reformulated Gasoline, otherwise known as Cleaner Burning Gasoline, was introduced into the California market. This revolutionary fuel has reduced fuel-related emissions to their lowest levels to date. (The reported result of RFG use in California motor vehicles is a 300 tons per day reduction in smog forming emissions which is equivalent to removing approximately 3.5 million cars from our roads and freeways.) Emissions reductions have been accomplished by lowering previously regulated components such as RVP and sulfur, requiring the use of oxygenates year round, and regulating additional components such as benzene, total aromatics, olefins, and distillation temperatures.

The Phase III Reformulated Gasoline Regulations were devised primarily to ban the use of MTBE in gasoline. As a result of the MTBE ban, other changes were made to the regulations. Ethanol specifications were added along with the specific allowable de-minimus levels of MTBE. Changes to the CAP limits were implemented to give flexibility producers who may use a Predictive Model for their final gasoline. A CARBOB model, which is a series of equations (in the form of a spreadsheet) that allow the producer to project the final parameters of the gasoline after all components are blended, was added.

Governor Davis extended the original date of implementation of January 1, 2002, to January 1, 2003. However, many companies are opting to begin producing Phase 3 before the effective date of the regulation.

Alternative Compliance Options and Self-Reporting -- In 2002, many gasoline and diesel fuel producers and importers chose to use alternative compliance options in order to comply with the motor vehicle fuels regulations. These options include predictive model limits, designated alternative limits, and certified fuel formulations. By choosing an alternative compliance option, a company is allowed more flexibility. To use one of these alternatives, the company must fulfill certain reporting requirements.

Fuels enforcement program staff monitor, evaluate, and oversee the data submitted by companies to ensure accurate reporting and compliance with company protocols. If a company reports incorrectly and recognizes the error before the ARB is aware of it, the company may self-report the violation order to reduce the risk of incurring costly penalties.

This practice of disclosure and increased communication between regulated companies and the ARB has encouraged a more cooperative relationship between the two. It's no longer uncommon for a fuel producer to notify Fuels staff of a violation, whether it is simply a reporting error or whether it is a more extensive violation involving the sale of illegal gasoline.

Fuel Distributor Certification Program -- In 2002, staff continued its work in the Fuel Distributor Certification Program. This program had begun in response to the involvement of organized crime in the fuel distribution business. Before a list of legally certified distributors was available, fuels retailers had no means by which to choose only reputable and complying companies. Moreover, the ARB had no way to check the records of companies who did not comply or cooperate and, in many cases, companies who were involved in criminal activity. Since the legislation was passed which instituted the program, all motor vehicle fuel distributors in the state must now be "certified."

To be placed on the list of certified distributors, a company must submit an application to the ARB, which includes its principal place of business and the location of its records. The ARB issues this list of certified distributors to gasoline and diesel fuel retailers. We are using this program in conjunction with special investigation and routine inspection activities.

Red-Dyed Diesel Fuel Enforcement -- Diesel fuel, which is used to power a vehicle on the California roadways, is subject to motor vehicular fuels tax; diesel fuel used for off-road or stationary equipment is not subject to motor vehicular fuels tax. Non-taxed diesel is required to be dyed red so trained inspectors may easily recognize it. In the 1990s, the IRS estimated that the national revenue lost from the illegal use of non-taxed diesel exceeded one billion dollars annually. When the IRS contract with the Air Resources Board to sample red-dyed diesel expired in 1999, the state Board of Equalization contracted with the ARB to

conduct field inspections for red-dyed diesel fuel, red-dyed analysis, and diesel fuel investigations. This contract with the BOA was renewed for three years beginning in June 2002. See Appendix D for enforcement statistics for this program in 2002.

Cargo Tank Enforcement and Certification Program -- The objective of the Cargo Tank Vapor Recovery Program is to reduce VOC emissions from gasoline cargo tanks. Vapor recovery systems on cargo tanks capture the emissions that are produced during the transportation and delivery of gasoline. These systems are required under the Health and Safety Code to be annually certified by the ARB. To certify a cargo tank, the owner or operator must submit an application along with test results to the ARB. Fuels enforcement staff issue a decal and an ARB-certified copy of the application to the cargo tank operator. Cargo tanks must also be maintained throughout the year in accordance with ARB certification procedures.

Staff in the Cargo Tank Program conduct statewide random inspections of cargo tanks at terminals and loading racks. When a leak is discovered, the cargo tank owner/operator is issued a notice of violation and must refrain from reloading until the cargo tank is brought back into compliance. If a cargo tank is found without a current decal or certification, or if the cargo tank is not maintained in accordance with ARB emission standards, the owner/operator is in violation and may be subject to penalties. Staff also conduct random inspections of ARB certified testers to ensure that leak tests are being conducted properly. Enforcement activity for 2002 for these programs may be viewed in Appendix A and D.

Case Development -- After violations of the motor vehicle fuels and cargo tank regulations are documented by inspectors, case development staff evaluate the field data or the documents obtained from companies. Staff prepares the case by analyzing company records, determining the cause and severity of the violation through correspondence with the company, and researching its compliance history. These cases are either settled or referred to the Office of Legal Affairs for settlement or litigation.

Consumer Products Enforcement

Program Overview

The Consumer Products Enforcement Section is responsible for ensuring that consumer products (such as hairsprays, household cleaning products, aerosol coatings, air fresheners, etc.) meet the standards established in ARB's statewide regulations throughout all points of the distribution chain – from manufacturer to filling plants to distributor to point of sale. To accomplish this, Consumer Products Enforcement staff travels throughout California to conduct inspections at retail and commercial establishments to verify that products available for sale to household and institutional consumers in California comply with the regulations. Samples are purchased and submitted to ARB's Monitoring and Laboratory Division for volatile organic compound (VOC) content testing of the appropriate limits. As violations are discovered, enforcement staff works with the Office of Legal Affairs

to investigate and develop the case, attempt to reach mutual settlement agreements with the violator, and monitor corrective actions.

The section is also responsible for ensuring that portable fuel containers meet applicable standards. As a result of compliance and testing efforts during 2002, companies were able to successfully manufacture “spill proof” portable fuel container and spouts that complied with all of the performance standards in the regulation. Inspection staff purchased compliance samples from retail outlets and assisted in testing of manufacturer supplied containers and spouts. Samples were submitted for laboratory testing and staff investigated the sale of non-complying products, monitored compliance plans, and settled cases (with required corrective action) where violations were found. In addition, enforcement staff worked with distributors and retailers to advise them of the portable fuel container regulations.

Program News

New limits and categories – New VOC limits became effective at the beginning of this year for several categories of consumer products including aerosol general purpose degreasers, bug and tar removers, aerosol adhesives, and undercoatings. Staff concentrated some of their sampling efforts to determine compliance with these new VOC limits and continued to evaluate new products to determine the appropriate category under the regulation. In an effort to assist in educating industry, we released several advisories including one concerning the VOC limits and categories that would become effective by January 1, 2003.

Sell-through of hairsprays – During 2002, Consumer Products enforcement staff released an advisory and worked with hairspray manufacturers, distributors and retailers to ensure that only complying 55 percent VOC hairspray was available after the end of the sell-through period. Consumer Product Enforcement staff focused on hair styling products because hairsprays continue to be the largest category of VOC emissions from consumer products, while the sales of other hair styling products such as hair mousses and hair gels appear to be increasing. We have continued to find non-complying hair styling products ranging from 80 percent hairsprays manufactured after the effective date, diverted product, incorrectly categorized hair mousse products (subject to a 16 percent standard), and counterfeit product.

Reactivity based limits for aerosol coatings – Reactivity based limits became effective for the general coating categories in the Aerosol Coating Regulations. Previously, aerosol coatings needed to meet VOC limits to reduce the total mass of volatile organic compounds in a product. Reactivity based limits were established to reduce the total amount of ozone formed by a products emissions using Maximum Incremental Reactivity (MIR) values for specific compounds. Reactivity based limits will become effective for specialty coating categories on January 1, 2003.

Portable Fuel Container & Spouts – ARB enforcement staff focused on making sure that retailers had removed “non spill-proof” products from retail stores and settled enforcement cases against those manufacturers and stores that continued to sell the products. We continued to monitor manufacturer’s

compliance plans, sample and test spill-proof systems and spouts, investigate non-complying products, ensure corrective actions, and settle cases where violations were found. A recall was initiated by the major manufacturer of spill-proof systems due to defects shown by our laboratory testing. Laboratory testing of another manufacturer's spill-proof system identified other issues that were resolved during subsequent testing as part of a variance request.

Stationary Source Enforcement

Program Overview

The Stationary Source Enforcement Section provides the ARB's oversight responsibilities to local air district programs. The section's important and varied program areas include:

- Asbestos – The section oversees implementation of and compliance with the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), and investigates all related complaints. Of the 35 air districts in California, nineteen of these districts do not have an asbestos program in place. For these (“non-delegated”) districts, the section receives and reviews all demolition/renovation notifications from these districts for compliance with the Asbestos NESHAP.
- Complaint Investigation – The section conducts special investigations of air pollution complaints emitted by stationary sources that are referred to us by districts, ARB's Office of Legal Affairs and Executive Office, and by other agencies. The section conducts compliance inspections to assist other enforcement sections with case development, and special projects to ensure compliance with all Health and Safety Code (H&SC) requirements concerning stationary sources.
- Variances – The H&SC allows air districts to issue variances to stationary sources that may be or become out of compliance with their rules and regulations. A petition for a variance must be brought before an air district hearing board, which allows or denies the petition, based on a set of criteria defined by the H&SC. The section reviews all variances for compliance with H&SC requirements, issues corrective action orders to those that do not comply, and maintains a database to monitor the activity related to all variances. It coordinates and conducts hearing board training workshops and carries out audits to evaluate the effectiveness of district variance programs.
- Aerometric Information Retrieval System (AIRS) – The section oversees the collection and input into the AIRS database of compliance/inspection data on major sources and on high priority violators (HPVs) in 26 of the 35 air districts, and generates reports to both the United States Environmental Protection Agency (U.S. EPA) and these air districts. The section conducts mini-audits of the districts' AIRS/Compliance and HPV programs to ensure complete and accurate input of the appropriate data, and assists U.S. EPA in training district personnel to effectively use the AIRS database.
- Continuous Emission Monitoring (CEM) Program – The H&SC requires that the operator of any stationary source (for which a district is required to install and operate a CEM) report violations of emission limits noted by the CEM to the air

district, and that the local districts, in turn, report these to the ARB. The section collects, stores, analyzes and reports this information.

- Complaint Hotline – This toll-free telephone number -- (800) 952-5588 -- provides a medium for citizens throughout the state to call and voice their concerns regarding air pollution problems. Citizens call to alert the ARB to persistent odors, emissions from industry and vapor recovery equipment, smoking vehicles and to ask questions regarding air pollution. When a call is received it is recorded, assessed, and either referred to the appropriate air district or appropriate agency, or investigated by the ARB. The ARB's Public Information Office also maintains a toll-free contact number at: 800-END-SMOG (800-363-7664).
- Agricultural Burning Program – The section reviews air district smoke management plans and burning rules. The staff also conducts aerial surveillance on agricultural burning practices in the Sacramento Valley.
- Rule Review – The ARB works cooperatively with local air pollution control districts to ensure regulations are adopted to achieve the most effective air pollution control program and obtain maximum emission reductions. The Rule Review Program accomplishes this by reviewing rules for clarity and enforceability, specifically for accuracy and completeness of definitions, presence of test methods, control emission device efficiencies and record keeping requirements. The district is notified verbally of deficiencies which is followed-up by a formal written comment along with suggestions for ensuring the rule is enforceable. Thorough review of draft rules has proven vital in reducing the need for changes of subsequent adopted rules and nearly eliminating the need for ARB to identify rule deficiencies at public hearings. The Enforcement Division reviews 90% of all rules submitted to the ARB.

Statistics relating to the section's enforcement activities may be found in Appendix E.

Strategic Environmental Investigations Enforcement

Program Overview

The Strategic Environmental Investigations and Enforcement Section, working under a Memorandum of Understanding with the California Environmental Protection Agency (Cal/EPA) leads special investigations of cross-media environmental cases (i.e., cases involving violations of one or more of air, water, toxic wastes, regular waste, and pesticide violations) that involve the other agencies within Cal/EPA, as well as air district enforcement staff and local law enforcement. This section also coordinates, in conjunction with the Heavy-Duty Diesel Enforcement inspectors, the focused environmental inspections in mixed residential/industrial areas. This section also supplies surveillance services in support of multi-media cases, and, as necessary, to support air district investigations.

Program News

Asbestos Cases – The ARB assists smaller air quality districts in investigation and pursuing cases involving illegal asbestos (“rip and tear”) removal. A number of cases that were referred to local district attorneys were closed during 2002, and resulted in misdemeanor convictions or civil penalties.

Incinerator Case – The Communities for a Better Environment community group brought this case, involving a medical waste incineration facility, IES, in a mixed residential/industrial area (also known as an “Environmental Justice” or EJ area) to the attention of the ARB and the Bay Area Air Quality Management District (BAAQMD). While multiple issues were involved (e.g., odor nuisance, potential permit violations), the ARB was called upon to support the BAAQMD by installing and monitoring surveillance equipment to determine if burning activities exceeded smoke opacity standards. The facility is now out of business.

La Montaña Dumping Site – Subsequent to the 1994 Northridge earthquake, rubble was removed from fallen freeways and stored at the La Montaña dumping site next to a residential area in Huntington Park, California. The rubble was stored for many years as the site owner sought, unsuccessfully, to dispose of the material in a constructive way (i.e., to be recycled for use in new freeway construction.) Concerns of potential permit violations and particulate matter emissions brought this matter to the attention of the ARB. To date, the pile of rubble has been crushed with particulate control measures enacted, and the ARB is assisting in the process of identifying a use for the material.

ARCO Underground Storage Tanks – At the request of Cal/EPA, the ARB provided investigative support on the ARCO case to the SWRCB. The Attorney General’s Office settled the case with ARCO for a record \$45.8 million. The settlement required ARCO to pay \$25 million in penalties to the State of California and an additional \$20.8 in improvements to its service stations above what is required by law. The settlement was the largest for this type of case ever recorded.

ARB ENFORCEMENT GOALS FOR 2003:

- Continue inspections at points of distribution and retail outlets.
- Increase enforcement audits of heavy-duty diesel vehicle fleets and refer cases for litigation or settlement where violations are found.
- Continue multi-media inspection events in mixed-use (industrial/residential) neighborhoods for the Environmental Justice Program.
- Continue improvement of environmental quality at the California-Mexican border through enhanced enforcement and compliance assistance. Specific goals include increased heavy-duty diesel vehicle inspections due to increased traffic under the North America Free Trade Agreement, and participation in the Tri-National Heavy-Duty Vehicle Inspection and Maintenance Working Group.
- Continue aggressive enforcement of ARB's Off-Highway Vehicle regulations.
- Continue aggressive enforcement of ARB's Large Spark-Ignited Engine and Non-Road regulations.
- Implementation of a program to enforce ARB's marine pleasure craft regulations.
- Continue working with the California Highway Patrol to remove vehicles from service for repeat offenders of the Heavy-Duty Vehicle Inspection Program, as provided in statute under the California Vehicle Code section 27159.
- Continue aggressive enforcement of the 49-state vehicle program.
- Continue work with the California Department of Motor Vehicles toward improving compliance with ARB's regulations (49-state vehicles, gray market vehicles, off-road motorcycles, etc).
- Continue aftermarket parts enforcement and peace officer training to discourage emission control system tampering and street racing.
- Implement a program to prevent the sale of illegal engines and vehicles through mail order and internet venues.
- Continue to improve and enhance the ARB enforcement program web page (<http://www.arb.ca.gov/enf/enf.htm>).
- Maintain the frequency of inspections at retail and commercial points of distribution of consumer products while focusing on the VOC limits that became effective on January 1, 2003.

- Implement an effective enforcement program for the new reactivity based limits in the Aerosol Coating regulation.
- Continue to implement an enforcement program for portable fuel containers.
- Continue aggressive enforcement of the Asbestos NESHAP.
- Continue aggressive investigation of citizen complaints.
- Conduct at least two Aerometric Information Retrieval System (AIRS) audits of non-grantee districts.
- Improve the quality of input from districts into ARB's AIRS and Continuous Emissions Monitoring (CEM) databases.
- Conduct at least two Hearing Board workshops related to stationary sources of air pollution to help improve the issuing of variances in the state.
- Update the stationary source variance database to improve ARB's management of reviewing and monitoring variances for the 35 air districts.
- Include the status of stationary source complaints on ARB intranet.
- Add an additional fuels inspector and increase inspections at points of distribution.
- Continue working with refiners, producers, importers, and SSD to resolve severe problems that continue to come up with the MTBE ethanol transition and to plan for future potential problems.
- Continue coordination with the IRS and BOE on the red dye diesel program and with BOE on imported diesel and gasoline fuels.
- Maximize reformulated gasoline reporting efficiency by requiring all refiners to use new ARB standardized reporting forms.
- Install two additional fume hoods in the New Mobile Fuels Laboratory to increase testing capability and as an additional safety measure.
- Continue the newly formed (Summer 2002) Cargo Tank Advisory Committee.
- Implement the School Bus Idling Air Toxic Control Measure during the fall of 2003, and commence enforcement of this program soon thereafter.

- Assist in the development of regulations for the control of emissions from Transportation Refrigeration Units (TRUs) and enforce these regulations upon adoption.
- Assist in the development of regulations requiring the upgrading (“reflashing”) electronic on-road heavy-duty diesel engines that exhibit high NOx emissions in-use and enforce these regulations upon adoption.
- Assist in the development of regulations for the control of diesel particulate emissions from on-road heavy-duty residential and commercial solid waste collection trucks and gasoline cargo tank trucks.
- Continue to develop a unified enforcement case tracking database and upgrade current enforcement program databases for better functionality and efficiency. Additionally, the smoking vehicle complaint database and web sites will be updated and a new web site and complaint database will be added for the school bus idling enforcement program.

APPENDICES

Appendix A

ENFORCEMENT ACCOMPLISHMENTS FOR 2002

Program	Pending	Settled/Closed	Penalties*
Mobile Sources	3005	1382	\$9,137,086
Fuels	31	18	\$640,550
Consumer Products	18	13	\$455,088
Portable Fuel Containers	8	5	\$31,300
Cargo Tanks	47	110	\$55,000
Stationary Source/Other	24	7	\$974,149
Totals	3133	1535	\$11,293,173

*= Includes supplemental environmental projects, early compliance costs, etc.

Case Dispositions

Category	Number Cases/Penalties
Civil	6/\$641,399
Administrative	1529/\$10,651,774
Criminal	0
Totals:	1535/\$11,293,173
Restitution/Investigative Costs	\$80,000
Supplemental Environmental Projects (SEPs)	6
NOVs/ROVs/Citations	1503

Key:

Civil cases are cases that are referred to the Attorney General's Office or a local District (DA) or City Attorney's (CA) Office or the U.S. Attorney's Office and are filed in Superior Court or U.S. District Court.

Administrative cases are cases settled in house via informal staff/violator settlements (used for small violation cases), the Mutual Settlement Program or through an administrative hearing in front of an ARB Administrative Law Judge (Heavy Duty Vehicle Inspection Program cases only).

Restitution/Investigative Costs are monies received for ARB investigative costs for cases that are referred to a DA/CA.

Supplemental Environmental Projects (SEPs) are programs whereunder case settlement monies are used for environmental research, education or technology projects (e.g. research on the effects of new gasoline additives, lawn mower exchange programs to promote the use of electric lawn mowers, etc.)

Settlement Agreements are formal signed agreements between the ARB and the violator for major cases settled under the Mutual Settlement Program.

Notices of Violation (NOVs) are issued under the mobile source enforcement programs for nominal violations of the Heavy Duty Vehicle Inspection Program (HDVIP) and all violations of other mobile source statutes/regulations (e.g. 49 state vehicle program, SORE, OHVs, etc.). These NOVs, with the exception of those issued under the HDVIP, carry civil penalties up to \$5,000 per violation.

Reports of Violation (ROVs) are issued under the fuels, consumer products and selected stationary source enforcement programs (e.g. asbestos) and also carry civil penalties as prescribed under statute and regulation.

Citations are issued for violations of the HDVIP and carry civil penalties ranging from \$300 to \$1800.

Appendix B

Significant Case Settlements

In most enforcement actions, the ARB is able to reach mutual settlement agreements with the air quality violators. These settlements generally include a monetary penalty, a corrective action, and in some cases, funds for a Supplemental Environmental Project (SEP) that provides additional emission reduction incentive programs, public education projects, etc. Apart from funds earmarked for SEPs, all penalties submitted to the ARB are deposited into the Air Pollution Control Fund, the Vehicle Inspection and Repair Fund or the Diesel Emissions Reduction Fund, which serve as funding sources to mitigate air pollution throughout California.

The following is a summary of the significant cases settled in 2002, including mobile source, consumer products and fuels cases.

Mobile Source Cases

Ford 7.3L Federal Navistar Engine Case - \$1.5 Million Settlement

The ARB determined that Ford assisted in the delivery of (374) vehicles in California that were for federal use only. The vehicles were all equipped with Navistar 7.3L diesel engines and were supplied as a chassis to secondary body builders throughout the U. S. The error was traced back to Ford's ordering system that allowed secondary manufacturers to order the 7.3L package as 50-state certified, but Navistar did not offer a 50-state certification, and each order for a 50-state model was supplemented by the ordering system with a federal version. Since most of these vehicles were custom built and in-use in California as shuttles, paratransit vehicles, or fleet vehicles, removing the vehicles from California would have imposed a hardship on the current owner/operators. Working with the ARB, Ford initiated a field-engineering program to convert the affected vehicles to a California certified configuration. After the completion of the corrective action, the ARB and Ford reached a settlement of \$1.14 million dollars to the APCF with \$365K held in abeyance and payable if a trigger violation is discovered within three years.

Toyota Motor Corporation Case - \$7.9 Million Settlement

On Board Diagnostic (OBD) devices are incorporated into the computer systems of new motor vehicles to monitor components that affect emissions. ARB testing found that during years 1996-1998, Toyota sold new vehicles with OBD systems that were unable to routinely detect fuel system vapor leaks. The ARB staff ordered a recall of approximately 330,000 vehicles. This case settled for \$7.9 millions as follows: \$1.2 million to the California Air Pollution Control fund, \$4.3 million to environmental improvement projects and \$2.4 million for extended warranty covered for these affected vehicles and early compliance efforts for future model years for compliance with the ARB's near zero evaporative emissions standards.

Off-Highway Vehicle Enforcement - \$327,000 Settlement

The ARB settled with twelve OHV manufacturers and dealers that were selling non-certified products in California. These products were not certified for sale in California, and in most cases, they were not coded with a "C or 3" in the eighth character of the VIN which resulted in the issuance of an unlimited use green sticker by DMV. All of these manufacturers and dealers have either removed their products from the market, or they have corrected and certified their products for sale in California. The penalties collected in these cases totaled \$327,382 to the APCF.

John Deere Handheld Lawn and Garden Equipment - \$200,000 Settlement

An ARB enforcement action determined that some John Deere/Homelite handheld equipment (weed trimmers, chain saws, blowers) was in violation of ARB's regulations. These include selling product in California prior to obtaining a valid Executive Order, labeling non-compliant product sold out-side of California as meeting CA tier 2 emissions standards, and not reporting entire engine families in the quarterly audit reports and audit avoidance of stockpiled 1999 MY product. The settlement terms of this case included \$100K to the APCF, and an additional \$100K in tier 2 weed trimmers which were exchanged at locations throughout California for older higher emitting product. The exchange was open to all California residents at no charge.

National Car Rental - \$60,000 Settlement

The Los Angeles County District Attorney (LADA) entered into a \$60,000 settlement with the National Car Rental, Inc. on behalf of ARB. National was found to be in violation of the California Health & Safety Code, Section 43151 and Business & Professions Code section 17200. National Car Rental, Inc. repeatedly rented or offered for rent, non-California certified vehicles within the state. An investigation by ARB staff revealed that on multiple occasions, 49-state vehicles that had been rented in other states and dropped off in California, were repeatedly rented in state prior to being sent to out-of-state destinations. The \$60,000 settlement included \$30,000 for the APCF to reimburse the ARB for investigative costs.

Hertz - \$125,000 Settlement

In January 2003, the Los Angeles County District Attorney (LADA) and the Air Resources Board (ARB) entered into a \$125,000 settlement with the Hertz Corporation. In violation of Health and Safety Code sections 43151 and Business and Professions Code section 17200, the Hertz Corporation rented or offered for rent non-California certified vehicles in the state. Investigation by ARB staff revealed than on multiple occasions, vehicles that had been rented in other states and dropped off in California, were repeatedly rented in-state prior to being sent to out-of-state destinations. The \$125K settlement included \$13,500 to reimburse the ARB for investigative costs. Enforcement actions of this nature are important, ensuring that businesses in California are provided with a level

playing field. Additionally, these enforcement actions help obtain the full benefit of California's emission standards.

Custom Motorcycle Cases - \$97,500 Settlement

The ARB continues to investigate custom motorcycle manufacturers for selling and offering for sale non-certified products in California. During this reporting period, the ARB has settled three such cases: Santa Rosa V-twin settled for \$22.5K to the APCF and a stipulated penalty of \$142.5K, Pomona V-twin settled for \$25K to the APCF with a stipulated penalty of \$100K, and Indian Motorcycle Company settled for \$50K to the APCF with a stipulated penalty of \$750K if future violations are discovered. The total for these three cases is \$97.5K to the APCF.

MTD/Home Depot Non-certified Small Off-road Engines - \$150,000 Settlement

During May 2002, the ARB finalized a settlement with MTD for introducing into commerce in California non-certified Briggs and Stratton (Briggs) engines installed on 1,426 lawn mowers and 59 edgers. An additional 386 log splitters with mislabeled Briggs engines were also included in the settlement. Under the terms of the settlement agreement, MTD paid \$150,000 to the APCF. MTD entered into the agreement on behalf of itself and its subsidiary White Outdoor Products (WOP) and on behalf of Home Depot and Pacific Power, the distributor for WOP.

Shelby Series One Vehicles - \$140,000 Settlement

On September 9, 2002, the Air Resources Board (ARB) finalized a settlement with Shelby American, Inc. (Shelby) for selling or assisting in the sale of 28 1999 model year Shelby Series One vehicles to California residents that were not certified for sale or use in California pursuant to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code. Shelby received Executive Order A-333-1 that certified 1999 model year Shelby Series One vehicles for sale in California. This Executive Order covered all 1999 model year Series One vehicles provided that the vehicles were completely assembled by December 31, 1999. During the course of ARB's investigation, it was determined that Shelby sold or assisted in the sale of 28 Series One vehicles in California that were fully assembled after December 31, 1999. These 28 vehicles were not covered by a valid Executive Order and were therefore not certified for sale or use in California. Under the terms of the settlement agreement, Shelby paid \$140,000 to the Air Pollution Control Fund.

Consumer Products Cases

Aerosol Services Corporation - \$400,000 Settlement

In 1998 and 1999, samples of non-complying hair mousse were collected that were formulated by Aerosol Services for three different companies sold under various brand names from various retail stores. It was determined during the

course of the investigation that Aerosol Services had sold over 883,414 units of hair mousse that exceeded the volatile organic compound limits. Of the total \$400,000 settlement, \$250,000 was paid in civil penalties and \$150,000 went into four environmental stewardship programs.

Scruples Professional Salon Products - \$15,000 Settlement

During a routine inspection on June 28, 2001, staff obtained non-complying hair mousse manufactured for Scruples. During October, we received a payment of \$15,000 to settle the enforcement case with Scruples for selling 9,041 cans of non-complying hair mouse in California. While Scruples accepted responsibility for the violation, their penalty was reduced because they had relied upon another company to formulate the product for them, Scruples was not aware of the VOC content of the product, and the company that formulated the product was no longer in business.

Sherwin-Williams Company - \$10,000 Settlement

Samples of non-complying Krylon Make it Suede aerosol coatings were obtained on December 14, 2000. On July 25, 2002, Sherwin-Williams Company settled violations regarding the sale of this aerosol coating for \$10,000. Sherwin-Williams Company manufactured for use in California approximately 48,097 containers of the Krylon Make It Suede product, an aerosol coating subject to the regulatory limits specified in Title 17, California Code of Regulations, section 94522(a).

Echo Incorporated - \$10,000 Settlement

On June 12, 2002, Enforcement staff purchased non-compliant spill-proof systems that were distributed and sold in California by Echo Incorporated. Echo distributed 2,264 non-compliant portable fuel containers in California that did not meet all of the performance standards in the Portable Fuel Containers and Spouts Regulations. Echo agreed to settle this enforcement case for \$10,000 on October 22, 2002.

Hopkins Manufacturing Corporation - \$15,000 Settlement

A Report of Violation was issued on December 17, 2001, to Hopkins Manufacturing Corporation for offering non-compliant fuel spouts for sale in California. Manufacturers of spouts must meet all of the performance standards in the Portable Fuel Containers and Spouts Regulations. Hopkins Manufacturing Corporation manufactured 8,954 non-compliant spouts that were sold by retailers in California. This case was settled on October 20, 2002, for \$15,000.

Fuels Cases

Vitol - \$25,000 Settlement

This case involving two incidents in which Vitol imported gasoline during October 2000 has been settled for \$25,000. In the first instance, they failed to report 10 batches of gasoline on the vessel East Siberian Sea as required by their

protocol. The second incident occurred on 10/30/00, when the marine vessel Neptune arrived with 280,000 barrels of gasoline certified under a predictive model. The fuel was transferred before notification was made, and a sample analysis of the fuel in that tank showed that the sulfur content was 14 parts per million (ppm), which exceeded the predictive model limit of 9 ppm reported by Vitol.

United Airlines Case - \$500,000 Settlement

UA reported in 1998 that they were fueling ground service vehicles at all thirteen of their California locations with Jet A, which is higher in sulfur and aromatic hydrocarbon content than the CARB diesel they should have been using. UA has paid \$100,000 in cash penalties to the ARB, and have paid an additional \$400,000 to fund a supplemental environmental project to be managed by the Sacramento Municipal Utility District. This program will develop an electric aircraft pushback tractor to replace diesel-powered pushbacks currently in use.

Stationary Source Case

Automotive Coatings Case - \$350,000 Settlement

The Enforcement Division, acting through a Task Force comprised of 18 districts, initiated and settled a case against Finish Master, a mid-level automotive coatings distributor, for sales of non-compliant automotive refinishing coatings/prohibition of sale. The sales involved 13,123 gallons of non-compliant coatings comprising of 37,260 lbs. excess volatile organic compounds (VOC) over a three-year period in four districts in California. The case was settled for \$350,000 on September 19, 2002 with the collected penalties being allocated between ARB and the four districts where the sales occurred by a mutually negotiated formula.

ARCO Underground Storage Tanks - \$45.8 Million Settlement

At the request of Cal/EPA, the ARB provided investigative support on the ARCO case to the SWRCB. The Attorney General's Office settled the case with ARCO for a record \$45.8 million. The settlement required ARCO to pay \$25 million in penalties to the State of California and an additional \$20.8 in improvements to its service stations above what is required by law. The settlement was the largest for this type of case ever recorded. The ARB was reimbursed for its investigative costs for this case and received additional monies for a SEP to fund research on reformulated gasoline ethanol additives.

Appendix C

Mobile Source Enforcement

Program and Inspection Activities – 2002

Table C-1
Heavy-Duty Vehicle Inspection Program

Number of Inspections	16,039
Number of Violations	1,011
Failure Rate	7.0%
Appeals Received/Closed	13/13
Violations Closed	904
Current HDVIP II Penalties Assessed/Collected	\$250,200/\$185,170
Delinquent HDVIP I/II Penalties Collected	\$60,229
Total HDVIP I/II Penalties Collected	\$245,199

Table C-2
Smoking Vehicle Complaint Program

Letters Sent	1,017
Responses Received	409
Response Rate	40.2%

Table C-3
Certificate of Non-Compliance (49-State Vehicle) Program

Certificates Received	1,634
Certificates Reviewed	264
Cases Opened	66
Cases Closed	89
Penalties Received	249,200

Appendix D

**Fuels and Consumer Products Enforcement
Inspection Activities -- 2002**

Table D-1

Consumer Products Inspections and Samples

Samples obtained	808
Lab results received	385
Alleged violations	157

Table D-2

Portable Fuel Containers and Spouts

Number of inspections	499
Samples obtained	430

Table D-3

Cargo Tank Vapor Recovery Certification*

<u>Cargo tanks inspected</u>	1,649
Cargo tanks tested	740
Pressure violations (nitrogen test)	127
Uncertified equipment violations	11
Liquid leak violations	1
Annual tests observed	30

*Includes tanks inspected during strike forces.

Table D-4
Motor Fuel Inspection Summary

<u>Number of samples</u>	1,650
<u>Number of analyses*</u>	16,264
Reid vapor pressure	1,324
Lead	962
Sulfur	1,820
Manganese	962
Phosphorus	962
Oxygen*	1,482
Benzene*	1,546
Total aromatics*	1,546
Olefin*	1,620
Distillation, T50*	1,634
Distillation, T90*	1,634
Aromatic hydrocarbon* (dsl)	286
PAH (dsl)	286

* Includes screen results

Table D-5
Gallons Represented in Sampling

<u>Gasoline</u>	283,270,600
Diesel	49,223,481

Table D-6
BOE Dyed Diesel Program

Number of Inspections	22,392
Number of Samples	84
Number of Violations	32
Penalties Assessed	\$35,382*
Penalties Collected	\$28,852*

*These monies go to Board of Equalization (BOE). The ARB works under a reimbursable services contract for the BOE for this program and conducts these inspections concurrent with HDVIP roadside inspections.

Appendix E
Stationary Source Enforcement
Air District Oversight Activity -- 2002

Table E-1

Aerometric Information Retrieval System (AIRS) Compliance Data

Reports received	50
Reports entered	35
Issues addressed	166
Reports sent to districts	177
Mini-audits conducted*	1
NOV logs received	14

* Mini-audits were conducted at the Lassen, Siskiyou and Feather River air districts. Complete reports will be available in 2002.

Table E-2

Asbestos Enforcement Activity

Notifications received	244
Demolition/renovation inspections	26
Violations issued	7
Violations settled	1
Penalty amount received	\$750
Samples collected	35
Samples analyzed	15
Complaints received	7
Complaints investigated	7
Related phone calls/e-mails received	316
NARS** reports submitted	3
Workshops conducted	2

** National Asbestos Registry System

Table E-3

Continuous Emissions Monitoring (CEMs) Program Activity

<u>Total reports received</u>	1,043
NOx	429

SO ₂	127
H ₂ S	129
CO	155
Opacity	203

Table E-4
Hotline Complaints Activities

<u>Total complaints received</u>	547
Stationary source	116
Vapor recovery	169
Smoking vehicle	182
Questions answered	80
Referrals to air districts	280
District responses received	195
Referred for investigation	6
Referred to other ARB division	41
Referred to other agency	32

Table E-5
Air District Rule Review

<u>Rules received</u>	261
Rules reviewed	255
Rules commented on	11

Table E-6
Variance Activity

<u>Variances received</u>	556
Variances reviewed	556
Notices received	478
Variances questioned	28
Variances returned	1
Issues addressed	1,803
Hearing Board visits	1
Workshops conducted	3
Audits***	0
Special Projects	4

*** Northern Sierra AQMD

Table E-7
Aerometric Information Retrieval System (AIRS) High Priority Violators (HPV)

Reports received	151
Reports entered	27
Issues addressed	204
Reports sent to districts	263
Mini-audits conducted*	2

Table E-8
Complaint Investigations

Investigations	14
Requests for Assistance	51
Reports Completed	16
Special Projects	12

Appendix F

Enforcement Division Contacts and Other Information

Division Contacts:

Division Chief	James R. Ryden	(916) 322-7061
Division Secretary	Beverly Kelly	(916) 322-7061
Enforcement Database Coordinator	Reggie Guanlao/ Jason Francis (Assistant)	(916) 445-2815
Enforcement Division Coordinator	Valerie Sarver	(916) 322-2659
Enforcement Division FAX (Sacramento – HD Diesel Program)	-	(916) 322-8274
Enforcement Division FAX (Sacramento – General Enforcement)	-	(916) 445-5745
Enforcement Division FAX (El Monte – HD Diesel Program)	-	(626) 450-6170
Enforcement Division FAX (El Monte – MS Enforcement Program)	-	(626) 350-6431

Mobile Source Enforcement Contacts:

Chief, Mobile Source Enforcement Branch	Paul E. Jacobs	(916) 322-7061
Manager, Mobile Source Enforcement Section	Gregory Binder	(626) 575-6843
Manager, Heavy-Duty Diesel Enforcement Section – North	Victor Espinosa	(916) 322-3976
Manager, Heavy-Duty Diesel Enforcement Section - South	Darryl Gaslan	(626) 450-6155
HD Diesel Field Supervisor – Northern California	Chuck Owens	(916) 445-2049
HD Diesel Field Supervisor – Southern California	Craig Pendley	(626) 450-6172
Citation Administration – Northern California	Renaë Hankins	(916) 322-8275
Citation Administration – Southern California	Rosemarie Huizar	(626) 450-6158
Collections Administration	Cheryl Griffin/ Katy Curran/ Jason Sanders	(916) 322-2654

Fuels/Consumer Products Enforcement Contacts:

Chief, Fuels/Consumer Products Enforcement Branch	Chuck Beddow	(916) 322-6033
Manager, Fuels Enforcement Section	Mark Stover	(916) 322-2056
Manager, Consumer Products Enforcement Section	Steve Giorgi	(916) 322-6965
Cargo Tank Program	Bob Fricker	(916) 322-6956

Stationary Source Enforcement Contacts:

Chief, Stationary Source Enforcement Branch	Bob Leonard	(916) 322-6034
Manager, Strategic Environmental Investigations & Enforcement Section	R.C. Smith	(916) 445-1295
Manager, Stationary Source Enforcement Section	Carl Brown	(916) 323-8417
Aerometric Information Retrieval System Program	Abdul Abdulrahman	(916) 322-3937
Agricultural Burning Program	Cheryl Haden	(916) 323-8410
Asbestos NESHAP Program	Ahmad Najjar	(916) 322-6036

Complaint Hotline Program	Verna Ruiz	(800) 952-5588
Continuous Emission Monitoring Program	Verna Ruiz	(916) 327-7574
Variance Program	Judy Lewis	(916) 322-1879
Other Contacts:		
ARB Office of Legal Affairs	Kathleen Walsh, Chief Counsel	(916) 322-2884
ARB Public Information Office	Jerry Martin, Information Officer	(916) 322-2990
ARB Complaint Hotline (Alternative Number)	-	(800) 363-7664 (800) END-SMOG

- All individuals listed above may be contacted via e-mail. Email addresses can be found at the ARB's web site at www.arb.ca.gov.