



California Environmental Protection Agency

AIR RESOURCES BOARD

REPORT OF ENFORCEMENT ACTIVITIES



Annual Report 2005

Enforcement Division
July 2006

REPORT OF ENFORCEMENT ACTIVITIES FOR 2005

AIR RESOURCES BOARD ENFORCEMENT DIVISION JULY 2006

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ACRONYMS

AFS	Air Facility System
ALJ	Administrative Law Judge
APCD	Air Pollution Control District
APCO	Air Pollution Control Officers
AQMD	Air Quality Management District
ARB	Air Resources Board (California)
ATC	Authority to Construct
ATCM	Air Toxic Control Measure
BACT	Best Available Control Technology
BAR	Bureau of Automotive Repair
BDOs	Boards, Departments, and Offices
BOE	Board of Equalization
CADE	California Auto Dealers Exchange
Cal/EPA	California Environmental Protection Agency
CAM	Compliance Assurance Monitoring
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CaRFG3	Phase 3 California Reformulated Gasoline
CAS	Compliance Assistance Section
CCDET	California Council on Diesel Education and Technology
CCR	California Code of Regulations
CDAA	California District Attorney's Association
CEM	Continuous Emission Monitoring
CFCs	Chlorofluorocarbons
CHP	California Highway Patrol
CID	Criminal Investigation Division
CIWMB	California Integrated Waste Management Board
CNC	Certificate of Noncompliance
CPES	Consumer Products Enforcement Section
CTS	Compliance Training Section
DA/CA	District Attorney/City Attorney
DAL	Designated Alternative Limit
DHS	Department of Homeland Security
DMV	Department of Motor Vehicles
DOJ	Department of Justice
DTSC	Department of Toxic Substances Control
ED	Enforcement Division

ACRONYMS

EIR	Environmental Impact Report
EJ	Environmental Justice
EO	Executive Order
ERCs	Emission Reduction Credits
FBI	Federal Bureau of Investigation
FCD	Final Compliance Date
FCE	Full Compliance Evaluation
FEL	Family Emission Limit (for engines)
FLETC	Federal Law Enforcement Training Center
FOE	Fundamentals of Enforcement
FTB	Franchise Tax Board
HCFCs	Hydrochlorofluorocarbons
HDVIP	Heavy-Duty Vehicle Inspection Program
HEVI	Heavy Duty Vehicle Inspection (database)
HPV	High Priority Violators
HSC	Health and Safety Code
IRS	Internal Revenue Service
LSI	Large Spark Ignition
MACT	Maximum Achievable Control Technology
MCLE	Minimum Continuing Legal Education
MLD	Monitoring and Laboratory Division
MOU	Memorandum of Understanding
MSCD	Mobile Source Control Division
MSOD	Mobile Source Operations Division
MTBE	Methyl Tertiary Butyl Ether
MY	Model Year
NAFTA	North American Free Trade Agreement
NESHAP	National Emission Standard for Hazardous Air Pollutants
NETI BIA	National Environmental Training Institute Basic Inspector Academy
NIPC	National Infrastructure Protection Center
NMHC	Non-Methane Hydrocarbon
NOV	Notice of Violation
NOx	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
OBD	On-Board Diagnostics
OEM	Original Equipment Manufacturer

ACRONYMS

OHRV	Off-highway Recreational Vehicle
OHV	Off-Highway Vehicle
OLA	Office of Legal Affairs
PAHs	Polycyclic Aromatic Hydrocarbons
PERP	Portable Equipment Registration Program
PM	Particulate Matter
PSIP	Periodic Smoke Inspection Program
RVP	Reid Vapor Pressure
SAE	Society of Automotive Engineers
SEIES	Strategic Environmental Investigations and Enforcement Section
SEIT	Strategic Enforcement Intelligence Team
SEMA	Specialty Equipment Marketing Association
SEP	Supplemental Environmental Project
SORE	Small Off-Road Engine
SOx	Sulfur Oxides
SSD	Stationary Source Division
SSES	Stationary Source Enforcement Section
SWCV	Solid Waste Collection Vehicle
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
TDF	Tire Derived Fuel
TRU	Transportation Refrigeration Unit
U.S.	United States
U.S. EPA	United States Environmental Protection Agency
VC	Vehicle Code
VEE	Visible Emissions Evaluation
VOC	Volatile Organic Compound

EXECUTIVE SUMMARY

The primary mission of the California Air Resources Board (CARB, 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 success 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.”

The total number of cases opened, cases referred for further action, cases settled and penalties collected all significantly increased in 2005. The following are 2005 key highlights of the ARB's Enforcement Program:

- 1,576 cases/citations closed
- \$11,839,508 total penalties collected
- Enforcement of school bus/delivery vehicle idling program and train industry on program compliance
- Increased enforcement of commercial vehicle idling program and trained industry on program compliance
- Implemented enforcement of the low heavy duty diesel engine nitrogen oxides (NOx) software (“reflash”) program in December 2005
- Over 47 Environmental Justice inspections with over 700 violations issued
- Over 17,000 heavy-duty vehicles inspected
- Over 1,200 commercial and school bus idling inspections
- Over 1,000 cargo tanks inspected
- Over 437 million gallons of gasoline represented in sampling
- Over 118 million gallons of diesel fuel represented in sampling
- Over 14,000 red-dyed diesel fuel inspections
- Over 1,800 consumer product samples taken during inspections
- Over 290 portable fuel containers and spouts inspections

- Stepped up heavy duty diesel vehicle enforcement at the California-Mexico border
- Submitted a report to the Legislature on North American Free Trade Agreement (NAFTA) and its impact on air quality

A key measure of the effectiveness of the enforcement program is the emission reductions achieved or excess emissions prevented from occurring. The Enforcement Division estimates enforcement actions undertaken in 2005 resulted in excess emission reductions of criteria and toxic air pollutants of over 100 tons per day. Further, much of the Division focus is to ensure that excess emissions do not occur in the first place. For example, the Division works with individuals and organizations to provide compliance assistance that is directed to preventing non-compliance. An additional indicator of effectiveness is the number of cases investigated and closed during each year. In 2005, 1,576 cases were closed for \$11,839,508 in penalties compared to 1,307 cases closed in 2004 for \$4,512,041. To provide a different perspective of 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 has consistently exceeded \$1 million per year. In recent years, collections have exceeded \$3 million per year and have gone as high as \$12 million.

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 this convention will be observed in any pending case summary information. Specific case settlement summaries can be viewed at the ARB's Enforcement Program web site at www.arb.ca.gov/enf/enf.htm.

INTRODUCTION

The ARB coordinates efforts to attain and maintain health-based air quality standards statewide and protect the public from exposure to toxic air contaminants. The ARB is specifically directed to address the serious problem caused by motor sources – cars, motorcycles, 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. The ARB is also responsible for controlling emissions from statewide sources of air pollution, especially sources of toxic air pollutants and 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 oversees the efforts of local air pollution control and air quality management districts in controlling air pollution caused by stationary sources.

To carry out these responsibilities, 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 – ensures 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 and voluntary compliance through education and compliance assistance materials.

Within the ARB, the Enforcement Division, through its three branches, is responsible for a variety of enforcement activities:

- 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 Stationary Source Enforcement Branch investigates and develops cases related to motor vehicle fuels and consumer products, 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, toxic exposure, and multi-media cases.
- The Training and Compliance Assistance Branch provides training and materials to air districts and industry for improving enforcement and promoting compliance.

Integral to the success of the enforcement program is 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 civil penalties. For cases that cannot 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 United States (U.S.) Attorney's Office.

Violations of California's air quality laws and regulations span a wide gamut that extends from nominal breaches of the state's statutes or regulations to deliberate, criminal actions. 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 ARB 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 in the 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 the Enforcement Case and Programs Coordinator, Ryman Simangan, at (916) 322-0355 or rsimanga@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>.

GENERAL ENFORCEMENT PROGRAM

In 2003, ARB began developing a strategic plan by interviewing over 50 air pollution professionals from the United States Environmental Protection Agency (U.S. EPA), local air districts, local district prosecutors, and other divisions of ARB and the California Environmental Protection Agency (Cal/EPA). The goal was to develop a long term, proactive vision for the Enforcement Division (ED or Division) that coincides with the Governor's vision for environmental enforcement. A committee was formed at the staff level, which then analyzed and distilled the information gleaned from these interviews. This happened in the midst of a reorganization of the Division in which a new branch was added. This new branch was then blended into the mission. Staff level representatives from each section within the Division met regularly and made recommendations on how the strategic plan could maximize ARB's enforcement effectiveness. The draft produced by ED staff was then reviewed by a team of ED Managers and a final draft was prepared in the Fall of 2005. The plan is now going through the final review process with implementation to begin in 2006.

MOBILE SOURCE ENFORCEMENT PROGRAM

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 source emissions and fuels standards. The ARB has used this authority to establish an aggressive program to reduce emissions from many sources ranging from heavy-duty diesel trucks, passenger cars, and motorcycles to jet skis, lawn mowers, and chain saws.

The Board's Mobile Source Enforcement Program is structured to ensure that vehicles (and other applicable sources, such as 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.

Particulate matter (PM) emissions from diesel-fueled vehicles and engines are approximately 28,000 tons per year in California. In 1998, the ARB identified particulate matter from diesel-fueled engines as a toxic air contaminant (TAC). Diesel PM emissions are estimated to be responsible for about 70 percent (%) of the total ambient air toxics risk. Staff of the ARB has developed a Diesel Risk Reduction Plan designed to reduce diesel PM emissions and associated cancer risks by 75% in 2010 and 85% by 2020. The air toxic control measures adopted by the ARB to meet these goals are enforced by this Division and include the School Bus Idling Air Toxic Control Measure (ATCM), Commercial Vehicle Idling ATCM, and the Solid Waste Collection Vehicle ATCM, among others. Enforcement of the Heavy Duty Diesel Inspection Program also directly regulates diesel PM emitted by heavy-duty trucks, thereby reducing cancer risk.

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

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 2% of California's on-road fleet, they produce about 30% of nitrogen oxides (NOx) and 65% of the particulate matter (PM) 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 and tampered 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). These programs are designed to reduce smog forming and PM emissions by approximately 25 tons per day based on the program regulations.

The HDVIP is administered by field inspection staff that performs smoke opacity tests at CHP weigh stations, random roadside locations including Environmental Justice (EJ) communities and ports, 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 secured 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, the vehicle owner 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 will request to see copies of smoke test results, demonstrations of correction, etc.) Recalcitrant fleet owners are audited a second time, their vehicles are tested and citations are issued for those vehicles that exceed opacity standards on the facility premises. Additionally, staff develops enforcement cases against non-compliant fleets. These cases are prosecuted by the State Attorney General or local District Attorney.

Program Highlights

Focused Environmental Inspections in Environmental Justice Communities/Ports

The ARB participates 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. EPA, U.S. Coast Guard, U.S. Homeland Security Agency-Immigration Customs Enforcement, Department of Toxic Substances Control, local law enforcement and hazardous materials agencies, Board of Equalization, 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 2005, ARB staff conducted 47 of these inspections throughout California. These inspections generated 8,134 vehicle inspections resulting in 773 violations of ARB's HDVIP regulations alone, not to mention the hundreds of violations found by the other agencies (including arrests for criminal activities).

California-Mexico Border Programs

The California Environmental Protection Agency (Cal/EPA), in conjunction with the ARB and the Bureau of Automotive Repair (BAR), 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.

While Canada and the U.S. have been implementing the North American Free Trade Agreement (NAFTA) for several years, full realization of the treaty has not yet occurred at the southern border. The U.S. and Mexico are still negotiating vehicle safety and other homeland security issues and to date, no timeline for opening the

border has been specified. In the meantime, there is an approximate 20-mile commercial zone in California in which freight from Mexico may be imported and delivered by Mexican-domiciled trucks. To guard against pollution from these vehicles, ARB maintains HDVIP inspection sites at both the Otay Mesa and Calexico border crossings.

In anticipation of the border opening and any adverse environmental effects that may accompany an eventual influx of Mexican trucks, the California Legislature adopted and Governor Arnold Schwarzenegger signed AB 1009, Pavley (Chapter 873 Statutes of 2004). This bill requires the ARB to adopt regulations to ensure that heavy-duty diesel commercial vehicles entering California meet (U.S.) federal emissions standards for the year they were manufactured. These regulations were adopted by ARB's governing Board in January 2006.

Because a significant increase in the volume of commercial travel across the border has been estimated, the Enforcement Division requested and was granted additional positions to staff a new Heavy-Duty Diesel Enforcement Section-Border. By the close of 2005, the section was being staffed. The Border section enforces heavy-duty vehicle programs from south of Interstate 10 to the U.S./Mexico Border, as well as at the ports of Los Angeles and Long Beach.

The California Legislative Analyst's Office and the Joint Legislative Budget Committee posed a series of questions related to the augmented border region staffing and the potential for adverse air quality impacts (and mitigation) due to the eventual border opening. The ARB prepared and submitted a report to respond to these inquiries. The report is available on ARB's web site at the following web address:
<http://www.arb.ca.gov/msprog/hdvp/bip/naftalaoreport.pdf>

California Council on Diesel Education and Technology

It is important for individuals or firms performing smoke opacity testing related to the ARB's HDVIP and PSIP to 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 five colleges within California (College of Alameda, San Joaquin Delta College, Santa Ana College, Los Angeles Trade Tech., and Palomar College) that offer low-cost training in the proper application of SAE J1667, as well as smoke-related engine repairs and maintenance practices. In June 2005, Advisory Number 340 was issued by the Enforcement Division advising that the ARB's policy requires that certification through CCDET be renewed every four years.

During 2005, the ARB also initiated a program to direct 25% of diesel fleet case settlements to fund the CCDET program. These monies are distributed to the five CCDET colleges in equal parts.

Smoking Vehicle Complaint Program

Smoking vehicles can have a very significant effect on our air quality. Everyone has a responsibility to maintain their vehicles so that air emissions are minimized. A well-maintained vehicle is a cleaner running, lower emitting vehicle. This one small effort will help to keep the air healthy for all of us.

Unfortunately, not everyone is aware that their smoking vehicle is such a problem. A number of air districts, along with the ARB, have implemented programs for contacting the owners of smoking vehicles. Under this program, citizens report excessively smoking vehicles and the owners are sent notices asking that they check (and repair as needed) their vehicles. This program generates 34% compliance response rate - see Appendix C.

School Bus Idling Air Toxic Control Measure (ATCM)

Adopted in December 2002, this ATCM requires the driver of a school bus, transit bus or other commercial heavy-duty vehicle to minimize idling at schools and within 100 feet of a school to protect children's health. Exemptions are provided for idling that is necessary for safety or operational purposes and the measure does not affect private passenger vehicles. The rule became effective July 16, 2003.

The idling rules are among a series of regulations adopted by the ARB as part of its Diesel Risk Reduction Plan designed to reduce 2000's diesel emissions levels 75% by 2010.

To compliment the School Bus Idling ATCM, a complaint program was established for the public to anonymously report a school bus or other heavy duty diesel truck that is believed to be idling and not complying with this ATCM. Upon receipt of a complaint, the driver/vehicle owner is issued an advisory notice and is asked to respond with information outlining compliance efforts. These complaints are reported through the ARB web site and established 1-800 Hotlines. During 2005, close to 800 school buses were checked and almost 700 schools were contacted. See Appendix C for additional statistics.

Heavy-Duty Diesel Engine Low NOx Software Reflash Program

The ARB has participated in an on-going outreach effort to promote the installation of new diesel engine computer software by disseminating information at events to the trucking industry and the manufacturer authorized dealerships.

The owners of many heavy-duty diesel trucks, buses and motor homes with engines built between 1993 and 1998 operating in California are required to have authorized dealers and distributors install new software, a process called "reflash," to prevent the release of excess NOx emissions. This requirement stems from a settlement agreement between U.S. EPA, ARB and the six major engine manufacturers. The engine manufacturers agreed to voluntarily reflash 35% of all California registered vehicles by November 2004 at no cost to the owner. One manufacturer, Detroit Diesel Corp. (DDC) was able to meet that goal, and as a result will be allowed to continue its

voluntary compliance program. The remaining five manufacturers were unsuccessful and were only able to achieve a voluntary rate of 18%; therefore, a mandatory reflash program has been imposed. On December 9, 2004 the Board heard staff's proposal and public testimony on this item. At the hearing the Board finalized the regulation for the remaining manufacturers, requiring heavy-duty truck owners/operators to be operating with a reflashed engine by the end of 2005. The ARB-mandated change should remove an estimated 34 tons of smog forming nitrogen oxides per day from the equivalent to the output of one million cars. Enforcement of this program began on December 1, 2005. ARB field enforcement staff inspects 1993-1998 model year heavy-duty diesel engines for compliance with the low NOx reflash regulations and citations are issued to vehicle owners found in violation.

The reflash program is enforced in conjunction with the roadside Heavy Duty Vehicle Inspection Program (HDVIP) and fleet Periodic Smoke Inspection Program (PSIP). For the 2005 enforcement statistics of this program, see Appendix C.

Commercial Vehicle Idling Program

In general, commercial vehicles are restricted from idling for more than five minutes in any given area. There are exceptions to this regulation such as when a vehicle is stuck in traffic, etc. The rule, adopted in October 2005, is focused on minimizing non-essential idling. In 2005, ARB inspectors covered the ports of Los Angeles/Long Beach and Oakland to check for commercial vehicle idling and found a high compliance rate with the regulation. However, as ARB inspectors continue to look throughout the state for violations of this idling ATCM, other areas have been identified as non-compliant with this regulation.

The ARB staff maintained a web site for the public to report incidents of unnecessary commercial vehicle idling. The owner is issued an "Advisory" notice and is asked to respond with information outlining compliance efforts. For the 2005 enforcement statistics of this program, see Appendix C.

Enforcement Actions for Periodic Smoke Inspection Program (PSIP)

In 2005, the ARB reached a settlement in the amount of \$100,000 with the Portosan Company, LLC (a provider of portable restrooms, trailers and fences) for violating state smoke emission standards for heavy-duty trucks. An investigation by the ARB showed that Portosan Company, LLC failed to properly test their engines annually for smoke opacity compliance, to repair those engines failing the annual smoke test, to provide receipts of repairs completed, to retest those engines that initially failed, and keep adequate records of these activities. By not complying with these regulations, Portosan Company, LLC enjoyed an unfair business advantage over its competitors by not having to incur those inspection and repair costs. The ARB documented numerous violations of the applicable regulations.

Solid Waste Collection Vehicle Program

California's Solid Waste Collection Vehicle (SWCV) regulation was passed in September 2003 to reduce the harmful health impacts of exhaust from diesel-fueled

waste collection trucks. The SWCV regulation will reduce cancer-causing particulate matter and smog-forming nitrogen oxide emissions from these trucks by requiring owners to use ARB verified control technology that best reduce emissions, following a phased-in schedule from 2004 through 2010.

The rule applies to all SWCVs of 14,000 pounds or more that run on diesel fuel, have engines in model years (MY) from 1960 through 2006, and collect waste for a fee. Each year through 2010, waste hauling and waste recycling companies are required to install ARB verified devices known as Best Available Control Technology (BACT), to reduce the diesel smoke coming from some of their waste collection trucks. The rule went into effect in 2004 and by December 31, 2004 hauling companies were required to do two things: reduce the soot from 10% of their diesel trucks with 1988-2002 MY engines (and 25% by December 31, 2005) and put labels on all of their SWCVs.

During 2005, ARB staff met routinely to discuss program implementation and enforcement. Enforcement of this program began late in 2005 with full fleet compliance required by 2010. The objective is for fleets to have all their SWCVs at or below a .01 PM for b/b-hp-hr level by 2010.

During June 2005, 14 advisory letters were sent out as warnings to various haulers for not having the required labels affixed to their vehicles. All 14 companies are now in compliance with the SWCV rule.

Other items of interest

- Staff started the redesign of the existing Heavy Duty Vehicle Inspection database office and field system. This system is what enables inspectors to issue citations in the field and office staff to process and track these citations. The existing system is antiquated, and with new diesel regulations to be enforced in concert with HDVIP, a redesign of the entire system was necessary and began in 2005. It is anticipated that the new system will be functional by the end of 2006.
- Increased activity in the Carl Moyer Incentive Program Compliance Checks has resulted in staff conducting numerous compliance checks per week. A compliance check consists of a query into our citation database to ensure there are no outstanding violations of diesel regulations. Funds may not be distributed to a company with a bad compliance history.

GENERAL MOBILE SOURCE ENFORCEMENT PROGRAMS

Program Overview

The ARB has direct enforcement authority over 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 Certificate of Noncompliance (CNC) and a copy of the CNC is sent to the ARB. If the CNC is issued to a dealer or fleet, an ARB field inspector will make a follow-up visit to the aforementioned violators and issue a Notice of Violation (NOV). 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 (HSC) Section 43151 et seq. Enforcement statistics for this program may be found in Appendix C. It is worth noting that staff settled about 600 significant cases in this area during 2005. A discussion of these cases can be found in Appendix B and a summary of case statistics in Appendix C.

Another area of focus for enforcement resources has been in the non-road categories. This includes off-road motorcycles and all terrain vehicles commonly referred to as off-highway recreational vehicles (OHRVs); small off-road engines (SORE) such as lawn and garden equipment – scooters – generators, large spark ignition (LSI) engines which include fork lifts – sweepers – quads – generators, and compression ignition engines over 175 brake horsepower (bhp) which include generators and construction equipment.

Program Highlights

After-market Parts Outreach

Staff continues to develop a positive working relationship with the Specialty Equipment Marketing Association (SEMA). These efforts help to ensure that all after-market parts that might affect emissions or emissions control systems are issued an ARB Executive Order that allows for their legal sale in California. Mobile source enforcement staff provided outreach at the SEMA International Auto Salon, which is a trade show for import vehicles and parts held in Los Angeles in April 2005.

Street Racing Enforcement Assistance

Mobile source enforcement staff has provided assistance to CHP and local law enforcement agencies throughout California in the effort to eradicate street racing. Often the vehicles involved in these unlawful activities are equipped with illegal engine modifications and after-market 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 training by ARB mobile source

enforcement staff assists peace officers in writing solid tampering citations that will support resulting court cases. During 2005, the ARB staff conducted numerous training seminars for law enforcement personnel. Law enforcement personnel conducted hundreds of street racing strike forces resulting in the issuance of hundreds of citations. These enforcement actions have had a significant impact on reducing excessive emissions from these modified vehicles.

Small Off-Road Engines (SOREs) & Off-Highway Recreational Vehicles (OHRVs)

The SOREs and OHRVs continued to receive additional enforcement attention during 2005. 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 and settled. In addition, staff supported the industry by assisting new manufacturers with the certification process. Staff also continued enforcement efforts to ensure that all off-road motorcycle manufacturers and dealers introduce and sell only products that meet California certification requirements. In 2005, with these efforts focused on internet retail markets, coordination efforts have begun with some of the largest internet retail entities. Those efforts include education and cooperation in order to obtain compliance with ARB laws and regulations from these large retail outlets. Aggressive enforcement of these regulations is critical because the SORE and OHRV regulating programs are designed to reduce smog forming emissions by approximately 200 tons per day. In addition, enforcement staff continues to work with the California Department of Motor Vehicles (DMV) and the California Department of Parks and Recreation to ensure proper registration and enforcement in the riding areas throughout California. This cooperative effort ensures that ARB will receive the anticipated reductions from this category.

Motorcycle Enforcement

During 2005, staff continued aggressive enforcement of the ARB's motorcycle regulations. The focus was on custom motorcycle builders who produce non-ARB certified units for the California market.

After-market Catalysts on On-Board Diagnostics II (OBD II) Vehicles

Staff continues the ongoing investigation program of muffler shops that install illegal after-market catalytic converters (catalysts) on OBD II vehicles. During 2004, the after-market industry started to introduce catalysts approved for some OBD II applications. However, these applications are still very limited, and the practice of installing illegal catalysts is still prevalent. The cost differential between a legal OEM catalyst and an illegal after-market part can often run into the hundreds of dollars. This creates a huge inequity for repair facilities that follow the law and use only legal replacement parts. Our enforcement efforts are targeted at leveling the market for all repair facilities, and enforcement actions have been initiated against shops that install illegal catalysts, with a number of new cases opened and settled in 2005.

FUELS ENFORCEMENT PROGRAM

Program Overview

The Fuels Enforcement Program regulates the composition of motor vehicle fuels and ensures compliance with motor vehicle regulations, including California reformulated gasoline regulations, diesel fuel regulations, and cargo tank vapor recovery regulations.

The enforcement of the fuels program includes motor vehicle fuels inspections at fuels facilities; the inspection and certification of cargo tank vapor recovery on gasoline cargo tank trucks; the investigation and research into existing motor vehicle fuels violations; the evaluation of alternative compliance data; and the development of motor vehicle fuels cases.

The Fuels Enforcement Program also provides outreach in the form of training seminars, individual company meetings, informative web pages, and ongoing support to refiners, importers and regulators. This support helps to clarify complex aspects of the regulations and inform the regulated community about alternative compliance options.

Program Highlights

Field Investigations

A primary component of the ARB fuels enforcement program is the inspection of gasoline and diesel fuel at refineries, import vessels, distribution and storage facilities, service stations, and bulk purchaser/consumer facilities. Fuels inspectors gather samples of the motor vehicle fuels which are then analyzed in the Enforcement Division's mobile fuels laboratory for compliance with Phase 3 California Reformulated Gasoline (CaRFG3) regulations and diesel fuel regulations.

Gasoline samples are analyzed for Reid Vapor Pressure (RVP), T50 and T90 distillation temperatures, total aromatic hydrocarbons, olefin content, oxygen content (including methyl tertiary butyl ether (MTBE) and ethanol), benzene content, and sulfur content.

Diesel fuel samples are analyzed for sulfur, nitrogen, polynuclear aromatic hydrocarbon (PAH) and total aromatic hydrocarbon contents. In the case of alternative diesel fuel formulations, cetane number, and additives are also regulated.

In 2005, staff gathered more than 3,000 samples and performed close to 26,500 analyses. See Appendix D for a summary of gasoline and diesel fuel inspections.

Mobile Fuels Laboratory

In 2005, the use of the new mobile fuels laboratory continued to increase sampling capability and turnaround time for sample analysis.

The mobile fuels laboratory now contains all the analysis instruments and support equipment necessary to test for the parameters of gasoline and diesel fuel which are regulated by the ARB. At the lab, ARB chemists conduct the testing in accordance with approved American Society for Testing and Materials (ASTM) test methods. The results are then recorded into an ARB test log and reviewed for violations. When a violation is discovered, an NOV is issued and a case is developed. See Appendix D for 2005 fuels analysis data.

Phase 3 California Reformulated Gasoline

The Phase 3 California Reformulated Gasoline regulations were designed to eliminate the use of the additive MTBE in California gasoline while retaining all the air quality benefits of the state's Phase 2 Reformulated Gasoline, which had been in use since 1996. As a result of the MTBE ban, other changes were made to the regulations. Ethanol oxygenate specifications were added along with a phase-out schedule of de minimus levels of MTBE. Changes to the maximum limits were implemented to give flexibility to producers who use a Predictive Model for their final gasoline. A model was also created to allow the producer to project the final parameters of the gasoline after all components are blended.

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 use of CaRFG3 has resulted in significant emissions reductions throughout California. In 2005, staff performed over 16,000 analyses on Phase 3 California Reformulated Gasoline. See Appendix D of this report for additional statistics of this program.

Alternative Compliance Options and Self-Reporting

The California Reformulated Gasoline and Diesel regulations offer alternative compliance options for companies to meet the motor vehicle fuels standards. These compliance options include: predictive model limits, designated alternative limits (DALs), and certified diesel fuel formulations. To use one of these alternatives, the company must fulfill certain reporting requirements, which may include the establishment of an approved protocol with the ARB.

When a company elects to use an alternative compliance option, it is required to notify ARB and provide information regarding its alternative compliance limits. Electronic forms have been developed which allow producers, importers, and small refiners to submit these notifications. Fuels Enforcement staff evaluates and monitors the data sent by companies to ensure accurate reporting and compliance with company protocols, as well as provide essential information. Staff randomly samples and tests the fuel to confirm the accuracy of the reports. In 2005, staff received and evaluated 3,249 reports.

Fuel Distributor Certification Program

This program was developed to provide a list of legally certified distributors to motor vehicle fuels retailers. The Fuel Distributor Program also provides the ARB with a means by which to check the records of companies who do not comply or cooperate with requests for data, and in some cases, who have been involved in criminal activity.

In 2005, staff registered 288 distributors of motor vehicle fuel in the State of California and issued its annual list of certified distributors to gasoline and diesel fuel retailers. This program is used in conjunction with special investigation and routine inspection activities.

Red-Dyed Diesel Fuel Enforcement

Diesel fuel which is used solely for off-road or stationary equipment and is not used to power a vehicle on the California roadways, is not subject to the motor vehicle fuels tax that applies to vehicular diesel.

Non-taxed diesel is required to be dyed red so that it may be easily recognized by trained inspectors. The Internal Revenue Service (IRS) estimates that the national revenue lost from the illegal use of non-taxed diesel exceeds one billion dollars annually.

Because ARB inspectors conduct ongoing inspections of heavy-duty diesel trucks and are qualified to obtain and transport diesel fuel samples, the state Board of Equalization (BOE) contracts the ARB to conduct field inspections for red-dyed diesel fuel, red-dyed analysis, and diesel fuel investigations. In 2005, staff conducted more than 14,500 inspections and issued 33 violations.

Cargo Tank Enforcement and Certification Program

The Cargo Tank Vapor Recovery Program is responsible for the enforcement of California HSC Section 41962(g), which requires that any tank vehicle transporting gasoline have a vapor recovery system certified by the ARB installed and maintained in compliance with the requirements for certification. Vapor recovery systems on cargo tanks capture the gasoline vapors produced during the transportation and delivery of gasoline.

The Fuels Enforcement staff administers the annual certification compliance test program. The compliance test program involves reviewing applications for compliance with the annual leak rate requirements pursuant to HSC Section 41962 and the Certification and Test Procedures incorporated by the California Code of Regulations (CCR), Title 17, Section 94014. An ARB certified copy of the application and an official decal which must be displayed by the cargo tank operator are issued after certification and mailed to the owner. A database that includes the thousands of cargo tanks that are ARB certified every year is also maintained in this program. In 2005, staff certified over 5,000 cargo tanks.

The Cargo Tank Program staff conducts statewide random inspections of cargo tanks at terminals and loading racks. Inspectors also conduct random inspections of ARB certified testers to ensure that leak tests are being conducted properly. In 2005, staff inspected 820 cargo tanks. See Appendices A and D for additional statistics.

Vapor Recovery Systems at Service Stations

In September 2005, the Fuels Enforcement Section began conducting its survey of vapor recovery systems at service stations in California. During the last months of 2005, staff collected data from 84 service stations in the San Joaquin Valley Air Pollution Control District (APCD), and continues to conduct the survey at gasoline dispensing facilities throughout California.

Case Development

After violations of the motor vehicle fuels and cargo tank regulations are documented by inspectors, further investigation is conducted by inspectors and case development staff. The Enforcement staff prepares cases by evaluating the field data and documents provided by companies, by analyzing company records, and by determining the cause and severity of the violation.

These cases are either resolved through the ARB's mutual settlement program or referred outside the ARB for settlement or litigation. In 2005, staff settled/closed 20 fuels cases and collected \$75,000 in penalties. See Appendices A and B for an overview of case dispositions and summaries of significant cases resolved in 2005.

CONSUMER PRODUCTS ENFORCEMENT PROGRAM

Program Overview

Consumer products are a significant source of volatile organic compound (VOC) emissions in California and contribute to the formation of ozone and particulate matter pollution. The Consumer Products Enforcement Section (CPES) is responsible for ensuring that chemically formulated consumer products, aerosol coatings, and portable fuel containers meet the standards established in ARB's statewide regulations. The CPES 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.

Regulations have been adopted to limit the VOC content of chemically formulated consumer products such as hairsprays, household cleaning products, personal care products, automotive chemicals, and household pesticides that are sold in California. Also, aerosol coatings sold and used in California must meet reactivity based limits to reduce ozone formation. In addition, prohibitions have been adopted in the Consumer Products regulations and in statewide ATCMs to reduce the exposure to toxic air contaminants from the use of products sold to household and institutional consumers.

To enforce the regulations, CPES staff purchased over 1,800 samples from various locations and through the internet which were submitted to ARB's Monitoring and Laboratory Division (MLD) for either VOC content or reactivity limits testing. After initial investigations, 47 NOVs were issued to companies during 2005 for violations of the consumer products regulations. The CPES staff developed each case, conducted office conferences, reached mutual settlement agreements with the appropriate party, or referred cases to the Office of Legal Affairs for appropriate legal action. In addition, follow-up inspections were conducted to ensure that compliance was maintained. During 2005, 36 cases were settled for violations of the Consumer Products regulations.

Portable fuel containers and their spouts sold in California are subject to statewide regulations to limit the emissions from evaporation, permeation, and spillage of fuels. These are typically small, reusable cans with spouts that are used to store, transport, and dispense gasoline and diesel fuel to refill fuel tanks on lawn mowers, equipment, and cars, etc. The CPES staff maintained an ongoing sampling and testing program for spill-proof systems and spouts, investigated the sale of non-complying products, settled cases where violations were found, and monitored corrective actions. During 2005, staff inspected over 280 retail stores, distributors, suppliers, and manufacturers for non-complying products. They investigated cases, issued 9 Notices of Violation, and resolved 4 cases involving manufacturing defects and non-spill proof systems being sold in California.

Program Highlights

Modifications to Portable Fuel Container & Spouts Regulation

In September, the Portable Fuel Containers and Spouts regulation was modified to improve spillage control, establish a certification program to improve product quality, incorporate a voluntary consumer acceptance program to encourage user friendly designs, clarify that kerosene containers and unlabeled utility jugs are subject to the regulation, adopt a diurnal emission standard, and streamline performance testing. The CPES staff distributed two advisories to remind manufacturers and retailers of the new requirements for kerosene containers and utility jugs.

Windshield Washer Fluids

The Consumer Products regulations divide California into two areas for the windshield washer fluid category. Type-A areas are the mountainous regions of the state and windshield washer fluids sold in these areas are allowed to contain VOC up to 35% by weight for freeze protection. In contrast, products sold in the non Type-A areas of the state are only allowed a VOC content of 1% by weight. Windshield washer fluid samples have shown a high non-compliance rate with approximately 50% of samples collected in non-Type A areas found in violation. The most common causes of the violations were distribution errors by manufacturers, distributors, or retail outlets and a lack of communication between companies of the VOC content and VOC limits. As a condition of settlement, companies have committed to enact additional distribution procedures to prevent non-compliant product from reaching retail outlets. Due to the

high non-compliance rate and the amount of excess emissions, staff will continue to focus on this category to ensure compliance.

New Prohibitions For Products Containing Chlorinated Compounds

The CPES staff issued an enforcement advisory reminding the consumer products industry of the new prohibitions in the California Consumer Products regulation on the use of para-dichlorobenzene, methylene chloride, perchloroethylene, or trichloroethylene. The use prohibitions and sell-through provisions affect the following product categories: Solid Air Freshener, Toilet/Urinal Care Products, Electronic Cleaner, Footwear or Leather Care Product, General Purpose Degreaser, and Contact Adhesive. The advisory was issued so that affected manufacturers can take appropriate measures to avoid enforcement actions.

2003 Consumer Products Survey

On July 15, 2005, CPES staff sent out letters to over 200 companies who did not fill out or return the 2003 Consumer and Commercial Products Survey (Survey) by the April 1, 2005 deadline. The letters were sent at the request of the Stationary Source Division (SSD) to ensure that all surveys were submitted. The CPES staff talked with manufacturers and fillers of consumer products explaining the requirements of the law and clarifying procedures for submitting surveys. As a result of the combined efforts, SSD was able to compile the data needed for tracking emission reductions and future rulemakings.

New Provisions for Displaying the Date of Manufacture

Changes were made to the date coding requirements in the California Consumer Products Regulation (Title 17, CCR, Sections 94507-94517) which became legally effective in July 2005. Manufacturers now have three options: (1) display the "Actual" day, month and year on which the product was manufactured; (2) use the "Standard" date-code specified in the Regulation which is "YYDDD;" or (3) use the manufacturer's own code. Advisory No. 345 was sent to all consumer product manufacturers in December 2005, notifying them of the changes to the Regulation and making them aware of the annual reporting requirements that became effective on January 31, 2006. Manufacturers who fail to file an explanation of their date-code annually or upon modification will be subject to enforcement action.

Implementing New "Most Restrictive Limit" Provisions in Consumer Products Regulations

The CPES staff worked with various manufacturers of consumer products in 2005 to enhance understanding of the changes to the "Most Restrictive Limit" provisions in the Consumer Products Regulation. Since 1994, representations made on the principal display panel of the product were used to determine the appropriate category and VOC limit. Investigations showed that companies were circumventing the regulation by claiming to be in an unregulated product category on the principal display panel, while making representations on the rest of the container that the product was suitable for use as a regulated product. Starting in January 1, 2007, representations made

anywhere on the label and packaging, including all affixed label or stickers will be used to determine the applicable VOC limit for a product. These changes should level the playing field for products complying with the VOC limits and ensuring that emission reductions are achieved.

STATIONARY SOURCE ENFORCEMENT PROGRAM

Program Overview

The Stationary Source Enforcement Section provides the ARB's oversight responsibilities to local air district programs, which enforce local prohibitory regulations, statewide ATCMs, and national emission standards at stationary sources within their geographical jurisdiction. The section's important and varied program areas are presented below. Please refer to Appendix E for additional statistics of these activities.

- **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 for compliance with the Asbestos NESHAP. In 2005, staff settled four violations and collected \$21,500 in penalties.
- **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 (HSC) requirements concerning stationary sources. In 2005, staff completed 47 special projects.
- **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 of 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 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). In 2005, staff responded to 460 calls.
- **Variances** – The HSC 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 HSC. The section reviews all variances for compliance with HSC requirements, issues

corrective action letters 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. Both the Beginning and the Advanced Hearing Board Workshops offer Minimum Continuing Legal Education (MCLE) credits to attorneys who attend the courses. Government and industry lawyers alike often take advantage of this great opportunity to obtain these required credits. Staff also performs audits to evaluate the effectiveness of district variance programs. In 2005, staff reviewed close to 700 variances.

- Air Facility System (AFS) – The section oversees the collection, input and quality assurance of the compliance and permitting data updated into the U.S. EPA's AFS database for 26 of the 35 air districts. The AFS Program consists of a Full Compliance Evaluation (FCE) Program and a High Priority Violators (HPV) Program. The FCE Program calls for the districts to supply the section with data for Title V certification report reviews, inspections and source tests. The section uploads the data into the AFS database and pulls bimonthly (every 60 days) reports for the 26 districts and U.S. EPA. The HPV Program calls for the districts to supply District Notice of violations (NOV) and with consultation with the section determines if the NOV meets the U.S. EPA threshold of a HPV. The section uploads identified HPV data into the AFS database and pulls monthly reports for the 26 districts and U.S. EPA. The section performs quality assurance on data supplied and existing AFS data. The section also conducts mini-audits of the districts supporting documentation, supplied data and practices for the FCE and HPV programs. The section also assists U.S. EPA in training district personnel to effectively use the AFS database. In 2005, staff addressed more than 300 AFS issues and 271 HPV issues.
- Continuous Emission Monitoring (CEM) Program – The HSC 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. In 2005, staff received and inputted more than 2,700 reports.
- 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, followed 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. In 2005, staff reviewed 290 rules.

Program Highlights

Hot Applied Seal Coat Operations – Complaint Investigation

Staff did research and field investigations after receiving a complaint that odor and visible emissions problems were emanating from hot applied seal coat operations. Staff worked with Cal Tran, asphalt contractors, and visible emissions experts to determine the magnitude and resolution of the problem. After research and collaboration, ARB staff determined that there are visible emissions problems with hot applied seal coat operations. To ensure compliance with Health and Safety Code statutes and all the state and district air pollution control rules and regulations, ARB did the following:

- Informed asphalt contractors, through their association, of their obligation to comply with all requirements.
- Wrote a letter to all air pollution control officers (APCO), informing them of the issue.
- Issued a hot applied seal coat operations advisory to all of the districts.
- Developed a method to read visible emissions from the hot applied seal coat operation and sent it to the districts.

Evergreen Pulp, Inc. – Variances

On December 14, 2005, the ARB conducted a hearing in Eureka to consider revoking or modifying a variance issued by the North Coast Unified Air Quality Management District (AQMD) Hearing Board. The variance was issued to Evergreen Pulp, Inc. on July 15, 2005. This was the first time in more than twenty-five years that ARB had conducted such a hearing. The Hearing was held by a Hearing Officer appointed by the Executive Officer.

The ARB staff recommended a hearing be held following a review of the variance. State law allows ARB to conduct such hearings under HSC Section 42362 and HSC Section 42363. Among other points, ARB staff expressed concern that the variance did not require compliance with required emissions standards as expeditiously as possible.

On December 7, 2005, the parties (Evergreen Pulp, Inc.; North Coast Unified AQMD; and the ARB), by stipulation, agreed to resolve the issues that would otherwise be addressed at the hearing and to petition the Hearing Officer to accept the stipulation in lieu of rehearing the Variance. This stipulation, if approved, would effectively terminate the variance about four months early.

After hearing presentations by the parties, and taking and considering verbal testimony from 33 members of the public, the Stipulation was accepted by the Hearing Officer.

Gasoline Storage Tank Inspections – Special Project

The Stationary Source Enforcement Section (SSES) was contacted by the Sacramento Metropolitan AQMD to conduct gasoline storage tank inspections. The SSES inspected six tanks and all of the tanks were in compliance. The inspection results were documented and submitted to the district.

**STRATEGIC ENVIRONMENTAL INVESTIGATIONS AND
ENFORCEMENT PROGRAM**

Program Overview

The Strategic Environmental Investigations and Enforcement Section (SEIES) conducts special investigations of cross-media environmental cases (i.e., cases involving one or more of air, water, toxic wastes, regular waste, or pesticides) that involve other agencies within Cal/EPA. Also, SEIES assists air district enforcement staff and local law enforcement agencies. The section works under a Memorandum of Understanding with the Cal/EPA to provide investigative services necessary to fulfill Cal/EPA's statutory enforcement responsibilities.

The SEIES is tasked with providing enforcement assistance (inspection, investigation, and case preparation) to local air pollution control districts. They also provide assistance to other local and regional environmental agencies including county departments of environmental health and regional water quality control boards. The section also supplies surveillance services in support of multi-media cases. The section's staff actively participates in a number of environmental task forces throughout the state.

Program Highlights

Environmental Task Force Investigative Assistance

The SEIES staff is a current member of several different environmental crimes task forces that meet throughout the state. In 2005, SEIES staff attended 53 task force meetings and provided investigative assistance to local districts and other local governmental environmental agencies in the investigation of crimes against the environment where air inspection, sampling, or other services are needed. Several cases involved fugitive dust arising from cement manufacturing operations in southern California. Another was a pulp mill in the northern part of the state. The section also provided investigative work in the wood-burning cogeneration industry and in various other issues raised at local environmental crimes task force meetings and in response to citizen's complaints.

Environmental Task Force Legal Coordination

In 2005, SEIES staff continued to forge new relationships with legal counsel. The SEIES staff attended the "Environmental Prosecutor Quarterly Roundtable" meetings

held in several locations throughout the state and discussed environmental crime prosecution with Cal/EPA and its constituent boards, departments and offices (BDOs); Department of Justice (DOJ); California District Attorney's Association (CDAA); and local district/city attorneys. The format has been very successful and it was decided by all members that it should continue into the future.

CAPCOA Enforcement Coordination

In 2005, SEIES staff continued to work diligently to establish a good working relationship with the California Air Pollution Control Officers Association (CAPCOA). Staff attended several CAPCOA meetings throughout the state including the annual enforcement meeting in South Lake Tahoe. All sessions were very informative and sparked lively discussions that help foster a spirit of mutual understanding, cooperation, and greater professionalism among the various air pollution agencies operating in California.

EPA Region 9 Criminal Investigation Division Coordination

Staff attended environmental crimes meetings with the U.S. EPA Region 9 Criminal Investigation Division (CID) staff in San Francisco and Sacramento. The purpose of the meetings was to develop a stronger relationship between the Federal, State, and Local environmental enforcement agencies. Coordination through the rest of 2005 continued to improve.

Coordination During Rule Making and Legislation

The SEIES staff continues to be involved with rule development and proposed legislation. In 2005, staff was involved with rules and legislation that dealt with portable equipment registration, cruise ship incineration, ship auxiliary engines, wood composites, chrome plating, and others. The coordination between the rule writers, the legislative analysts, and the enforcement staff is critical in ensuring that the new regulations are enforceable at both the state and local level.

City of Los Angeles Chrome Plater to Receptor Distance Study

Originally requested by the City Attorney's Office Environmental Justice Section through its Environmental Crimes Strike Force, the Deputy City Attorney wanted to know if additional situations existed in the City where chrome platers were in close proximity to sensitive receptors. Staff compiled information from walk-by visits tracking distance and direction from established chrome platers to nearby sensitive receptors. Over 60 such instances were documented in the city's population of chrome platers. The report was presented to the strike force in April 2005.

Texas Industries – Riverside Cement (TXI Oro Grande)

A complaint from the California Department of Fish & Game High Desert through the San Bernardino County District Attorney's Environmental Crimes Strike Force led to 11 days of particulate dust (PM₁₀) monitoring in the immediate vicinity of the plant which documented five days of violation of the Mojave Desert AQMD Fugitive Dust

Rule (Rule 402). After review by ARB's Office of Legal Affairs (OLA) the case was referred to the Mojave Desert AQMD as a Report of Violation. The case was added to an open violation being considered by the District against TXI – Oro Grande.

City of Oceanside

A request for a joint vapor recovery inspection at the City of Oceanside was directed by ARB Executive Office. The joint inspection was conducted by District and SEIES staff leading to issuance of three additional Notices of Violation to the City on top of four previously-issued NOVs. The case involved installation of non-certified additions to a certified Phase 2 vapor recovery system. The case was transferred to the San Diego County APCD who settled the case for the addition of a full-time Environmental Coordinator to the City of Oceanside staff.

Needles Unified School District (USD)

Acting upon a referred complaint from EPA Region IX, staff investigated a charge of illegal dumping of asbestos-containing waste on the Needles USD property by contractors doing demolition/construction of new girls/boys locker rooms. The case was referred to the San Bernardino County Fire Department/Hazardous Materials Division. Follow up communication revealed that the contractor had notified the District and U.S. EPA. Charges of establishing a non-approved dump site are being investigated by the San Bernardino County Department of Environmental Health.

Portable Equipment Registration Program (PERP) Inspection Project

The Portable Equipment Registration Program (PERP) Inspection Project was a 12 month cooperative effort of ARB's Enforcement and Stationary Source Divisions (ED and SSD, respectively) with ED acting as the project lead. The purpose of the project was to learn more about the number of portable units that lacked local permits and state registration, and to evaluate compliance with PERP Rule. The project began in 2004 and was completed in 2005 in coordination with the California Air Pollution Control Officers Association (CAPCOA) and local district personnel. A final report was issued in 2005. Among the major findings, staff found that 53% of portable units found in the field were properly permitted and 47% were not. Staff estimates that there are between 15,000 to 20,000 portable engines and associated equipment operating in California without required local permits or state registration. The majority of those non-compliant engines are polluting older models that have not been certified to meet federal emission standards. Staff also made several suggestions concerning the PERP Inspection Form, which were adopted by SSD and posted on ARB's website.

Vapor Recovery Enforcement

Staff worked with ARB's Monitoring and Laboratory Division (MLD) to develop a prototype Gasoline Dispensing Facility Inspection Form. During development, staff obtained input on the proposed form from several local air districts. The draft inspection form was submitted for consideration and further development to CAPCOA at the Enforcement Managers meeting in San Francisco.

Vapor Recovery Enforcement Case

In 2005, SEIES staff has provided investigative assistance to the Fuels Section. Staff opened three gasoline vapor recovery cases concerning the sale of thousands of uncertified vapor recovery components in California by a corporation in New England and two California distributors. The Investigation continues in 2006.

Locomotive Environmental Memorandum of Understanding (MOU)

In 2005, staff assisted with several inspections of railroad yards/facilities in conjunction with the MOU in preparation of enforcing the MOU beginning in 2006.

Construction Company Case

The investigation of a bridge building company's portable equipment permits continued through 2005, involving SEIES staff based in ARB's Sacramento and El Monte offices. An additional violation was documented in San Bernardino County in October 2005. The State Attorney General's Office has filed a lawsuit against the company charging them with statewide violations of air pollution laws. The SEIES continues to work very closely with the Attorney General's office on this case.

Air Conditioning Case

The investigation of a Heating and Air Conditioning Company resulted in the Sacramento County District Attorney filing a lawsuit against a company for the illegal release of chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) into the atmosphere, the improper disposal and storage of hazardous wastes, unfair business practices, and numerous local violations. One hundred illegal releases were documented through video surveillance and a criminal search warrant was issued to obtain further evidence of wrong doing by this company.

California Hazardous Materials Investigators Association

The SEIES staff attended the California Hazardous Materials Investigators Association (CHMIA) annual training conference in Shell Beach from March 16 -18, 2005. The three day meeting was unusual in that the first day, March 16th, was shared with the California District Attorneys Association as the last day of their annual environmental crimes workshop. This enabled both regulators and prosecutors to discuss issues common to both groups. The CHMIA conference was also unusual in that it reached out to other environmental media, such as water and air. The conference was so successful that CHMIA is considering changing their charter and fully embracing regulators from all media.

Federal Law Enforcement Training Center (FLETC) Training

The SEIES staff attended US EPA's Advanced Environmental Crimes Training in Brunswick, GA from February 28 to March 11, 2005. The two-week course covers the entire range of criminal environmental prosecution with experts in each field brought in from U.S. EPA, State government, or local government to present their particular block. Interview techniques, search warrant service, evidence collection, suspect

interviews and a trial are all aspects of the course. The FLETC is located in Southeast Georgia on the former Glynco Naval Air Station. It was converted in 1975 to a training center for the Department of Treasury and following 9/11, control shifted over to the Department of Homeland Security (DHS). The course is a one-of-a-kind experience in environmental crimes training.

Disneyland Resorts Fireworks Observation

The SEIES staff, along with staff from the South Coast AQMD, observed the opening day fireworks display at the Disneyland Resort on the evening of May 5, 2005. A local homeowner's association had been complaining about the fireworks impact on their community. Disneyland had just brought its new low-smoke black powder fireworks on line and this was the first use of the new smoke technology. Disneyland has reduced its use of black powder in its fireworks program by 19% overall, has totally eliminated the use of black powder charges in lifting the fireworks package to its display height (using an electric air compressor to lift these packages since the 2004 season), and is currently implementing the low-smoke black powder technology. It will transition to ultra-low-smoke black powder technologies in 2007. Some residual smoke remains after the special effects package detonation, but the overall impact from the fireworks displays has decreased significantly since 2003.

Advanced Topics In Environmental Enforcement

The SEIES and Training Section staff was asked to speak at the Advanced Topics in Environmental Enforcement Workshop at the Asilomar Conference Grounds on June 7, 2005. Sponsored by the California District Attorneys Association, the Enforcement Division staff presented "Methods & Equipment for Reporting, Sampling, & Analyzing Air Contaminants". The presentation was well received and it sparked a lively discussion among the full capacity audience of attorneys and environmental regulators.

U.S. EPA Data Exchange Workshop

The SEIES staff attended the US EPA Data Exchange Workshop at the Region 9 offices in San Francisco on August 25, 2005. This all-day meeting covered electronic information sharing between state, local, and federal agencies across all environmental media (air, water, waste, toxics, and pesticides). Many environmental professionals were present at the meeting, including local agency personnel and members of Cal/EPA's Boards, Departments, and Offices. A number of case studies were presented, problems and issues were outlined, and future initiatives were discussed.

Cruise Ship Incineration Inspections

The SEIES staff, along with staff from the Compliance Training Section (CTS), conducted inspections on three cruise ships calling at the Port of Los Angeles and Port of Long Beach on October 24, 2005. All three of the cruise ships were complying with requirements requiring no incineration within three miles of the California coast.

Staff will periodically drop in and conduct these inspections whenever cruise ships are in port.

Sacramento Chapter InfraGard Meeting

The SEIES staff attended the InfraGard Sacramento Chapter Meeting in Sacramento on October 20, 2005. Participants included the Federal Bureau of Investigation (FBI), Franchise Tax Board (FTB), and other agencies. InfraGard is a FBI program that began in the Cleveland Field Office in 1996. It was a local effort to gain support from the information technology industry and academia for the FBI's investigative efforts in the cyber arena. The program expanded to other FBI Field Offices and in 1998 the FBI assigned national program responsibility for InfraGard to the former National Infrastructure Protection Center (NIPC) and to the Cyber Division in 2003. InfraGard and the FBI have developed a relationship of trust and credibility in the exchange of information concerning various terrorism, intelligence, criminal, and security matters.

National Cement Company Field Visit

The SEIES staff accompanied U.S. EPA staff on a visit to the National Cement Company in Lebec, CA to obtain information on the use of Tire Derived Fuel (TDF) as part of the company's overall Portland cement manufacturing operation, and to continue its quest to lower emissions of nitrogen oxides (NOx) and sulfur oxides (SOx). The facility underwent a major renovation in 1999 which introduced a new 16-compartment baghouse, as well as the use of petroleum coke as the primary fuel and use of TDF as a supplemental fuel. The facility has applied to the Kern County APCD for a permit modification to allow for conveyORIZED introduction of four shredded tires and use of TDF fluff as alternative fuels. The reduction of NOx/SOx from the use of alternative fuels allows the facility to use a high sulfur petroleum coke. Soon the facility will be affected by the planned introduction of two 10,000 unit housing developments on the Tejon Ranch. Due to the cement plant's close proximity to the ranch, increased interest has been placed on the possible reduction of emissions.

Brown Bag Presentation On Internet Information Resources

The SEIES staff presented a Cal/EPA "Brown Bag" workshop on Internet Information Resources and "Skip Tracing" (the practice of locating people who are trying to evade responsibility for debts, violations, etc.). The Brown Bag series is sponsored by Cal/EPA's Office of the Secretary. The training was developed by the Enforcement Intelligence Team, which is part of Cal/EPA's Enforcement Initiative. This class was presented for the first time in Sacramento on November 14, 2005. The event was well attended and the audience provided valuable feedback that will help improve the training materials.

Inter-Agency Training To Detect Environmental Fraud

The SEIES staff attended a two-day training class titled "Detecting Fraud Workshop." The course was sponsored by the State Water Resources Control Board (SWRCB) and was held at the Region 5 Water Control Board office in Rancho Cordova on November 8-9, 2005. The event was well attended and included speakers and

students representing a variety of state and local enforcement programs. The information presented will be useful in the planned upcoming fraud investigations.

Evergreen Pulp, Assistance to North Coast Unified Air Quality Management District

Responding to a request for assistance from the North Coast Unified AQMD (District), SEIES staff has devoted a large portion of time to the matter of the Evergreen Pulp, Inc. pulp mill located on Samoa Peninsula across the Eureka Bay from the city of Eureka. In August and September, staff met with representatives of the District, attended a meeting of the District's hearing board, and arranged for the involvement of U.S. EPA, which issued Evergreen a Finding of Violation. In October, staff participated in settlement discussions at U.S. EPA's offices in San Francisco, and observed source testing being performed by a contractor to Evergreen. In November, staff conducted an inspection of the facility with staff from both the District and U.S. EPA. In late November and early December, SEIES staff participated in source testing conducted by staff of ARB's Monitoring and Laboratory Division (MLD).

Forest Product Company Case

Based on information developed by SEIES staff, the Attorney General filed a complaint against a forest product company (FPC) alleging hundreds of emission violations in three separate local air districts, as well as other air violations and unfair business practices. The FPC operates sawmills with cogeneration plants at several locations in the state. The SEIES investigated the violations on its own initiative and in cooperation with one of the local air districts, leading to the referral of the case to the Attorney General. In 2003, after the Attorney General opened enforcement activities against FPC, the company initially outright rejected the allegations of hundreds of violations at its facilities. After realizing the extent of their liabilities in the case, FPC settled many of the citations with two local air districts (which have primary jurisdiction) without the Attorney General's knowledge. The Placer County AQMD declined to settle with FPC the violations that occurred in Placer County and has cooperated with the Attorney General and the ARB. The Attorney General and attorneys for ARB are working to bring the complaint to successful prosecution and to have FPC's settlements with the two air districts overturned in court, as well as to seek penalties for the violations that occurred at FPC facilities in those districts. The court has set a trial date in late 2006. In the meantime, SEIES staff and Placer County AQMD staff are working closely with attorneys on the preparation of pre-trial documents. In 2005, SEIES staff gave depositions in the case.

California Indian Gasoline Sales Survey

Beginning in December 2004, and continuing through January 2005 in response to a complaint from the California Independent Oil Marketers Association, SEIES staff conducted a second survey of tribal gasoline sales in California. Staff surveyed all of the Indian governments and casinos in California concerning gasoline sales and found 14 locations where tribes are selling gasoline in California. As part of this survey, staff from the Fuels Section sampled gasoline from several Indian gasoline stations in Northern and Southern California. Based on the survey, gasoline prices at Indian

gasoline stations in California range from \$0.15/gallon higher than local non-Indian stations to \$0.26/gallon lower.

Cemex Quarry Site Assistance

The SEIES staff assisted staff of the Mojave Desert AQMD in a Final Compliance Date (FCD) increment of progress inspection at the Cemex Quarry site approximately 15 miles SE of Victorville. Cemex was approaching a final compliance date for its cement clinker radial stacker and its emergency pit operations. District staff was not currently certified to read visible emissions so SEIES staff volunteered their services. The facility was loading from its 20,000 ton dome storage facility into railcars to supply the Cemex River plant approximately 15 miles away. Staff conducted a visible emissions evaluation of the railcar loading operation on December 13, 2005 which documented compliance with the District rule. The emergency pit was not in operation on the day of the inspection so District staff will inspect this equipment prior to the January 12, 2006 final compliance date.

Surveillance Cases

The SEIES surveillance unit assisted state and local agencies, including air pollution control districts, in their investigations of environmental criminal activity of all kinds throughout the state. The unit works closely with investigators specifically to provide covert video, either digital or analog, to the investigating teams for the various agencies. This video is then used by investigators as evidence to support their cases. Video evidence is a highly effective tool in environmental crime enforcement and its use by state and local agencies continues to grow.

During 2005, SEIES assisted state, local and federal agencies across the state to support civil and criminal case development. The program provided surveillance assistance in the following cases:

- Provided technical assistance to Orange County Sanitation District to remedy transmission difficulties in a case utilizing a SIGMA sampler.
- Illegal Storage and handling of waste tires – for the California Integrated Waste Management Board (CIWMB). A facility routinely violated its waste tire collection permit.
- Illegal dumping of hazardous waste – for Department of Toxic Substances Control (DTSC).
- Complaints of illegal emissions from a battery recycler– for South Coast AQMD, and DTSC.
- Illegal dumping of waste tires – for Kern County Environmental Health and CIWMB.
- Illegal dumping of waste tires – for Ventura area CIWMB staff.

- Illegal dumping of hazardous waste and waste tires – for Imperial County Environmental Health.
- Provided investigative assistance on a company that illegally stored and transported hazardous and non-hazardous wastes.
- Dumping of waste tires and hazardous materials – for Fresno City Code Enforcement and the CIWMB.
- Fraudulent vapor recovery certification – for ARB Cargo Tank Enforcement.
- Tested methods of monitoring minor roads crossing over the California border for the Department of Food and Agriculture, Pest Exclusion Branch. This also may assist ARB Fuels Enforcement in detecting transport of cheap illegal fuels into the state. Improper hazardous waste transportation might also be detected.
- Dumping of waste tires and hazardous materials – for Sacramento County Code Enforcement and the CIWMB.
- Illegal operations at a landfill – for San Joaquin County Department of Environmental Health.
- Emission of serpentine rock dust into the air – for ARB and El Dorado Air Pollution Control District (APCD).
- Dumping of waste tires and hazardous materials – for Fresno County Code Enforcement and the CIWMB.
- Failure to properly use required vapor recovery equipment – for the ARB Cargo Tank Program.
- Illegal accumulation of waste tires – for the CIWMB and Sonoma County.
- Dumping of waste tires and hazardous materials – for Napa County Code Enforcement and the CIWMB.
- Illegal CFC refrigerant purges to atmosphere by a company that receives old air conditioning units – for ARB Enforcement Division and U.S. EPA.
- Dumping of waste tires and hazardous materials – for San Luis Obispo County Code Enforcement and the CIWMB.
- Dumping of waste tires and hazardous materials – for Nevada County Code Enforcement and the CIWMB.

Special Surveillance Projects

In 2005, SEIES personnel participated in several special projects. Staff assisted CIWMB and ARB, with time lapse video of a housing project in the bay area which was used to demonstrate the constructive evolution of a “green” housing project.

In a related effort, Cal/EPA awarded the remote video surveillance program a small grant to enable them to educate local environmental enforcement agents about video surveillance. The agents learned appropriate uses for video, limitations of the equipment, some tips and techniques, and legal considerations. This was achieved in part during the evidence gathering process for over 30 agents in more than 20 cases. Staff made presentations in Fresno, Sacramento, and Diamond Bar to a total of about 100 California Integrated Waste Management Board grantees who are responsible for enforcement of the waste tire disposal program. The presentation demonstrated SEIES's capabilities and progress in helping to fight illegal waste tire dumping.

Staff also made a presentation in Portland, Oregon to about 25 members of the Western States Project who represented the environmental enforcement programs of about 12 Western States. This also demonstrated SEIES's capabilities and progress in helping to fight environmental crime.

Assistance to Placer County APCD

In 2005, the Placer County APCD requested help from the Enforcement Division Chief for inspection and CEM data analysis assistance. The SEIES staff was glad to accept the tasking and has been actively involved with the districts enforcement program.

Special Projects

In 2005, SEIES personnel participated in several additional special projects. In May section personnel manned a booth at the Cross-Media Environmental Symposium in Sacramento. In August, staff attended the State and Regional Water Board statewide enforcement meeting – the first of its kind. Finally, staff attended the Western States Project's special training in Las Vegas, NV on investigating environmental crimes. The SEIES continues to be the go-to section when senior management has unusual and challenging assignments.

Strategic Enforcement Intelligence Team

On November 30, 2004 former Agency Secretary Terry Tamminen issued an Enforcement Initiative for Cal/EPA containing eleven projects that are intended to support the Governor's Action Plan for the Environment. The Cal/EPA Strategic Enforcement Intelligence Team (SEIT) was one of those projects. The team is led by the SEIES manager and is made up of enforcement specialists from the ARB, DTSC, State Water Board, DPR, and CIWMB. In 2005, the Intelligence Team looked at ways to conduct significant environmental investigations outside of normal inspection routines, participated in environmental crimes task forces throughout California, presented Intelligence Team concepts to local enforcement personnel, developed enforcement materials and training to help assure consistent enforcement across all Cal/EPA BDOs, and coordinated its activities with other teams that are partners in the Enforcement Initiative.

TRAINING & COMPLIANCE ASSISTANCE PROGRAMS

COMPLIANCE TRAINING PROGRAM

Program Overview

2005 has been a banner year for the Compliance Training Section (CTS) as the section has increased traditional compliance training activities, as well as taken on additional enforcement duties (listed below) within the Enforcement Division (ED). After the CTS was transferred back to ED during the last quarter of 2004, CTS increased the compliance training activities to a much higher level in order to meet the ever increasing training requests both from the air districts and the regulated communities. Additionally, CTS took on various enforcement functions, outreach activities from other divisions, and expanded and revised the compliance training curriculum:

- Vapor Recovery Inspections
- Cargo Tank Inspections
- Cruise Ship Incinerator Inspections
- Rail Road Agreement Inspections
- Evergreen Pulp Mill Inspection
- Transportation Refrigeration Unit Outreach
- North American Free Trade Agreement (NAFTA) Training Video
- Basic Inspector Academy Online Training
- Revision of the Uniform Air Quality Training Program
- Fugitive Dust Control Course
- Advanced Air Quality Enforcement Workshop

In 2005, CTS has provided a total of 214 classes or multi-day training programs, representing 5,639 student days of training.

The CTS continues to provide high quality training while at the same time responding to the changing needs of California agencies and industries. The CTS provides a valuable service to ED, other divisions within ARB, Cal/EPA, and U.S. EPA. Continuous growth of the Compliance Training Program over the years reflects the value to this agency. The ARB has received many favorable comments for the excellent work performed by CTS staff. The CTS accomplishments continue to be used to meet Cal/EPA's program commitments.

Programs and Attendance

Classes and Programs	# of Courses	Student-Days
100 Series (California) (4 days)	2	196
200 Series (California)	80	846
Enforcement Symposium (3.5 days)	1	858
Other 300 Series Courses	21	1003
National Environmental Training Institute Basic Inspector Academy (NETI BIA)	1	87
California Totals	105	2,990
National Totals	109	2,649
Overall Totals	214	5,639

The CTS decided to use the number of student days to determine the effectiveness of meeting training goals. Student days are calculated by multiplying the number of students in a particular class by the number of days the class is given. That means that if one student attends all five days of a five day class, CTS has provided five student days of training. Also, if the attendance for a single-day course is 30 students, CTS has provided 30 student days of training. This method allows program coordinators to see not only how busy trainers are, but also to see the size of the audience that is being served.

Aside from overall attendance, CTS emphasizes program development. That means the development of new courses and programs as well as the retooling of existing courses and programs. In fact, the success or failure of the program is dependent upon CTS staff's ability to maintain and improve courses that have been taught for years in order to keep them current and informative while at the same time bringing new material and courses of interest to environmental professionals. Thus, CTS had been able to provide valuable instruction for environmental professionals at all levels of experience.

The courses scheduled for the upcoming year reflect the specific needs of most local agencies in California. In addition, many special training programs are requested by other agencies and industries annually and are provided by CTS as resources allow. In this manner, CTS has gained the support and respect of many California agencies as well as many leaders of the regulated community in providing compliance training and regulatory support for their staff.

100 Series (Uniform Air Quality Training Program)

Two 100-Series programs were conducted in California in 2005. Inspectors from California and Nevada, as well as a number of representatives from the regulated industries and the military, attended the regularly scheduled four-day session in Sacramento.

The CTS staff is in the process of revising the 100 series lesson plan to include the latest information in this air pollution introductory training course. The updating effort is over 50% complete and the goal is to debut the new and revised version by fall of 2006.

National Program

Working with the core program of 30 courses (100/200/300 Series), staff continues to make the presentations more relevant and dynamic. Staff also created and upgraded electronic slide presentations for ten of the courses, giving instructors additional tools to provide high-quality training.

Due to requests from air pollution control agencies in various states, a new three-day course on Permit Writing has been added to the curriculum of the National Program. This three-day workshop targets permit service staff in various state air pollution control agencies nationwide. Day one focuses on common stationary sources & controls and provides an overview of the permitting process including Modified & New Source Review (NSR), Best Available Control Technology (BACT) review, Offsets and Emission Reduction Credits (ERCs), Title V, and Federal NSR. Students will be introduced to common prohibitory & source specific rules as well as New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). Day two focuses on application review and effective permit writing, risk management, statewide control programs and compliance considerations. Day three focuses on hands on experience by writing various types of permits. This three-day workshop has been added to the National Program curriculum and the first class will be held in late summer of 2006.

200/300 Series Courses

Once an inspector or regulatory/enforcement professional has completed his/her "Basic Training," the next level of training provided by CTS falls in the 200/300 Series category. These courses are generally more focused than the 100 Series courses and have a higher level of technical information. Moreover, the 200 Series courses included actual "Hands On" experience in the form of field inspections as part of the training, while the 300 Series courses provide workshop environments and in many cases legal certification.

The 200/300 trainers had an outstanding year. Output was up and course quality was continuously improving as the staff upgraded and computerized lesson plans. These improvements have been reflected in overwhelmingly positive student course evaluations. Even more impressive is that these improvements occurred in spite of the

increased demand for staff time on other projects such as Vapor Recovery Inspections, Cargo Tank Inspections, Cruise Ship Incinerator Inspections, Rail Road Agreement Inspections, Evergreen Project Investigation, Transportation Refrigeration Unit Outreach, NAFTA Training Video, Advanced Air Enforcement Workshop, Basic Inspector Academy Online Training, Revision of the Uniform Air Quality Training Program, Fugitive Dust Control Course, Enforcement Symposium and many others.

200/300 Series Statistical Analysis

Parameter	Instate 2005	Instate 2004	Out of State 2005	Out of State 2004
Classes Accomplished	105	72	109	110
Student Days	2,990	2,752	2,649	2,510
Average Attendance	28.5	38.1	24.3	22.8

It should be noted in the table above that the increase in numbers of the Instate Classes Accomplished and Student Days in 2005 is because the restriction of overnight travel on CTS has been removed by the Enforcement Division. Thus, CTS staff was able to travel and provide training in more areas in 2005 than in the previous year. On the other hand, the National Program has remained the same.

Cal/EPA Basic Inspector Certification Program

Assembly Bill 1102 released in 1999 requires the Secretary of Cal/EPA to “develop a program to ensure that all the boards, departments, offices, and other agencies that implement Cal/EPA’s rules and regulations “take consistent, effective, and coordinated compliance and enforcement actions.”

The Cal/EPA Basic Inspector Academy (BIA) Program was created to address this requirement. Currently this program consists of one-week training with subject areas that include:

- Inspection Preparation
- Observations and Interviewing Skills
- Documenting Violations
- Enforcement Actions
- Cal/EPA’s Laws and Regulations
- Cal/EPA Programs

In calendar year 2005, this training was provided to 88 participants from the following agencies:

- California Environmental Protection Agency
- Air Resources Board
- Department of Pesticide Regulation
- Department of Toxics Substances Control
- Integrated Waste Management Board
- State Water Resources Control Board
- Cal/CUPA Forum
- California Conference of Directors of Environmental Health
- California Air Pollution Control Officers Association
- County Agricultural Commissioners and Sealers Association

Cross Media Enforcement Symposium

The 2005 12th Annual Environmental Cross Media Enforcement Symposium was held in Irvine, California in May. The Symposium objective was to provide a forum where participants can gain knowledge about advanced enforcement techniques.

There were a total of 245 participants in the Symposium including, but not limited to, field inspectors, law enforcement personnel, attorneys, and members of the regulated community.

The three and a half day event focused on enforcement subjects involving each program/media (air, water, waste, toxics and pesticides) and possible cross media, cross program impacts (commonly referred to as “cross media”). This interdisciplinary approach recognizes that many environmental issues cannot be fully addressed without the involvement of more than one environmental regulatory entity.

Participants of the Symposium learned from top enforcement professionals proven techniques to improve the effectiveness of inspection, investigation, administrative, civil, and criminal enforcement practices. Participants also learned how to identify different violations encountered in each medium, determine what agencies may need notification after violations are identified, whether violations may be administrative, civil or criminal offenses, and what follow-up enforcement actions need to be taken.

The CTS created a mock case and a 30-minute video with input from our sister Cal/EPA agencies. Sessions on Settlement Conference, Expert Witness in Direct and Cross Examination, and the jury deliberation process allowed participants to see mock proceedings with students playing the role of inspectors, witnesses and jurors while

experienced environmental lawyers demonstrated common strategies to represent defendants and discredit evidence.

The 2005 Symposium included the latest environmental scenarios. The latest enforcement methods were also addressed at the Symposium by top officials from Cal/EPA, Air Resources Board, Department of Toxics Substances Control, Integrated Waste Management Board, Water Resources Control Board, and the Department of Pesticide Regulation. In addition, local environmental enforcement staff and local prosecutors offered their perspectives on current issues.

Additional Programs

Vapor Recovery Inspections

After the CTS was transferred from the Stationary Sources Division (SSD) back to the Enforcement Division (ED), the CTS staff has gone through field training to conduct Vapor Recovery inspections at Gas Dispensing Facilities. During 2005, CTS staff was able to assist the Fuels Enforcement Section to conduct Vapor Recovery inspections throughout California. The CTS was able to show that CTS staff can be cross-trained to perform other duties as required and maximize man power where it is needed.

Cargo Tank Inspections

The same arrangement was made to assist the Fuels Enforcement Section in conducting Cargo Tank inspections. Again, CTS staff was efficient and productive in helping other sections in the division.

Cruise Ship Inspections

Title 17 of the Health and Safety Code (HSC) Section 93119 prohibits the use of waste incinerators within three miles of the California coast on vessels capable of berthing 250 or more passengers. The ARB staff has enforced this law with two points of inspection. The inspector boards the ships in port and views the trash log which specifies the ships location when the incinerator is started and stopped. The inspector also views the incinerators and notes the temperature of each. As the operating temperature will be about 1000 degrees, a resting temperature in the range of 100 to 200 degrees Celsius (°C) supports the assertion that the unit has not operated for several hours. In addition to the Section 93119 inspection, at the inspector's option a visible emissions evaluation of the ship's stack may also be taken. This would document the stack's status relative to HSC Section 41701 and the local district visible emissions rule.

In this first year of enforcement, staff has developed an inspection form and an inspection protocol. A team of inspectors has been trained and inspections were conducted at four ports. The bulk of California's cruise traffic docks in San Diego, Long Beach and Port of Los Angeles. Routine coverage of all of these ports will fall to the southern team from the Strategic Environmental Investigations and Enforcement Section (SEIES) in El Monte. More seasonal and incidental stops in San Francisco,

Monterey and Port Hueneme, will fall to Compliance Training and Compliance Assistance staff.

In 2005, a dozen inspections were conducted. No violations were found. The ship's crews are increasingly aware of the presence of the ARB's staff and their responsibility for compliance. At least one carrier is training large numbers of ships officers in U.S. EPA Reference Method 9 (EPA Method 9), visible emission evaluations.

Rail Road Agreement Training & Inspections

In 2005, the CTS staff was asked to take over the training responsibility of enforcing the agreement signed between ARB, Union Pacific and BNSF railroads. This agreement addresses excessive smoking and unnecessary idling by parked railroad locomotives.

The CTS staff was asked to:

- 1) Demonstrate the practicality of implementing the requirements of this Agreement by inspecting some railroad yards throughout the state,
- 2) Collect baseline data on compliance, and
- 3) Develop a training program and inspection protocol for future district delegation.

In December 2005, CTS staff trained eight ARB inspectors in northern California, two ARB inspectors in southern California and developed inspection forms to be used during the inspections. This crew inspected six rail yards throughout the state. These were not enforcement actions but for data collection only. Two hundred-forty-two (242) locomotive observations were made. No excursions of excessive visible emissions were observed. One hundred-fifty-five (155 or 64%) of the units were idling at the time of inspection. Staff was able to confirm the installation of an idling reduction device on 21% of the units observed.

Compliance with the visible emissions provisions of the agreement was stellar. In contrast, both railroads were found in violation of idling reduction provisions.

This project was completed on time by CTS staff with assistance from Compliance Assistance staff, thus allowing further training and full enforcement by both the local air districts and ARB personnel in 2006.

Evergreen Pulp Mill Inspection

CTS received a special request from the North Coast AQMD to assist in a comprehensive inspection of the Evergreen Pulp Mill, a major stationary source as well as air toxic source located in North Coast AQMD in Eureka, California.

The first inspection was conducted on November 15 – 17, 2005 and the joint task force participants included ARB & U.S. EPA investigators, Monitoring & Laboratory

Division (MLD) source testing staff, ARB & U.S. EPA legal staff and North Coast AQMD personnel. The second inspection was conducted on November 30 and December 1, 2005 and included ARB investigators, MLD source testing staff, and inspectors from North Coast AQMD.

Numerous Title V permit violations were found and multiple Notices of Violation were issued to the facility. The case is currently under joint review by ARB & U.S. EPA legal staff.

As part of the settlement to mitigate excess emissions and establish long term compliance, the CTS staff assisted ARB & U.S. EPA legal staff in drafting an Abatement Order as well as revised Authority to Construct (ATC) conditions for multiple permit units that were in violation. These incorporated Maximum Achievable Control Technology (MACT) II federal standards that the facility was subject to. These conditions reflect Evergreen's willingness to:

- (a) be held to source test parameters,
- (b) wanting operational flexibility for enforcement protection, and
- (c) achieving long term compliance.

The CTS staff also helped in drafting and providing comments on the Federal Consent Order and provided input on outstanding technical issues related to the Federal Consent Order. There were numerous technical issues that the facility was contesting related to parametric monitoring and 40 CFR Part 64, "Compliance Assurance Monitoring" (CAM). The CTS staff continued to assist the U.S. EPA & District technical staff in resolving these issues.

Transportation Refrigeration Unit Outreach

In 2005, Stationary Source Division (SSD) requested CTS to develop an outreach training program for the upcoming implementation of the Transportation Refrigeration Unit (TRU) Air Toxic Control Measure (ATCM).

The CTS staff developed a comprehensive training program on TRU and conducted six training presentations on the TRU ATCM. The presentations were conducted in Fresno, Bakersfield, Livermore, Los Angeles and Sacramento, and were well attended by members of the regulated communities. These presentations covered the general background on the ATCM as well as the steps that the affected industry needs to take in order to be in compliance. These presentations were followed by extensive question and answer sessions.

It is anticipated that there will be more outreach training to be conducted as the implementation dates of the TRU ATCM draws closer in the near future.

NAFTA Training Video

The North America Free Trade Agreement (NAFTA) was signed by the United States of America, Mexico and Canada in order to promote free trade among these three countries.

One of the provisions of NAFTA is to allow heavy-duty trucks from any one of these three countries to travel freely among member countries as long as the air emission limitations and safety regulations of the host countries are observed.

At the request of the former Cal/EPA Chairman, Alan Llyod, Ph. D., a training outreach video was made by the CTS staff for the purpose to inform the public that air emission regulations are enforced equally, in conjunction with other regulatory agencies, among all trucks operating within the jurisdiction of the state of California.

This outreach video is currently under upper management review. Upon approval, it will soon be released as an outreach project to the public regarding ARB's effort in preventing any further deterioration of the air quality in California as an unintended consequence.

Basic Inspector Academy Online Training

In addition to the classroom portion of the Cal/EPA Basic Inspector Academy (BIA), a six-hour online training course was developed by CTS in conjunction with the staff from the Compliance Assistance Section (CAS) as a prerequisite to the classroom portion of the BIA. The online portion includes the following topics: Role of the Inspector, Science of Environmental Pollution, Overview of Environmental Law, Roles and Responsibilities of the Cal/EPA Agencies, and Inspector Health and Safety.

The purpose of the development of the online portion is to provide flexibility to the students so they can study part of the BIA when and where it is convenient for them. In addition, the online portion also allows the students, and the instructors, to spend less time away from their offices and be more efficient and productive on their jobs.

The remaining classroom portion of the BIA focused on such topics as Report Writing, Interviewing Skills, and Field Sampling. A number of interactive exercises are also featured. The most involved of these was a mock inspection exercise. The attendees write a complete inspection report based on the mock inspection and the principles learned during the week. Analyses of these reports by the students themselves and by two environmental attorneys are both instructive and entertaining.

The evaluations from the online portion of the BIA are very positive – the students loved the idea of being able to complete the online training at their own pace. They also felt that the “online training was very well laid out and clear, which was a big help in learning and understanding the information”.

Development of Fugitive Dust Control Course #252

The control of fugitive dust has become a common strategy in meeting the attainment standards of particulate matter (PM). The CTS staff developed this particular course to address the growing demand for training on fugitive dust. First presented in June 2005, this course presents some of the basic principles of fugitive dust control methodologies including the causes, the location and health impacts of fugitive dust, the problems that fugitive dust presents, and the rules and regulations that have been adopted to control fugitive dust.

In addition, this course discusses the methods that are used to determine violations of these regulations, the products that are available for controlling fugitive dust, and the use of community outreach in a successful dust control strategy. Finally, this course is designed to inform how to implement a pro-active enforcement program as envisioned by the U.S. EPA and how it can be streamlined to meet specific training needs.

Development of Advanced Air Quality Enforcement Workshop Course #400

The Compliance Training Section developed and offered the Advanced Air Quality Enforcement Workshop in Sacramento on February 14-16, 2006. The development of this course was due to numerous requests from the local air districts and directions from upper management.

Course #400 includes current topics such as: U.S. EPA Title V Updates, pending MACT standards, Compliance Assurance Monitoring, and Compliance Monitoring Strategies. The ARB Enforcement Division will update its programs including regulations on idling trucks, buses, trains and the Portable Equipment Registration Program. The San Joaquin Air District will update the audience on the enforcement of SB 700. Mutual Settlement Programs, Electronic Resources, Update on Evaporative Vapor Recovery for Gasoline Dispensing Facilities, Environmental Justice, Gathering and Presenting Evidence, and Title V Facility Audits are topics that will be covered by both the Districts and the ARB. The El Dorado County APCD will give an overview and update of Naturally Occurring Asbestos in their county. This training course will be opened to enforcement inspectors and management from the local APCDs and AQMDs throughout California as well as any other out-of-state air pollution control agencies. It is anticipated that this course will be offered in November 2006 in southern California.

Summary

The CTS continues to provide quality training while responding to ever changing compliance training needs. In addition, CTS continues to provide support to the Enforcement Division in many ways other than training by completing a variety of assignments in a fast and efficient manner. CTS continues to meet or exceed all goals. In order to improve the programs, the section is increasing its marketing efforts in selected areas to increase attendance where past numbers suggest an unmet market demand. Where needed, CTS staff is constantly updating, upgrading, and adding new materials to existing courses. To ensure the successes of the Compliance

Training Program, adjustments have been made and others will be made as need arises.

COMPLIANCE ASSISTANCE PROGRAM

Program Overview

In general, businesses and other regulated entities try to comply with air quality regulations and standards, but sometimes need assistance in their efforts. Enforcement agencies also need general and in-depth information about a variety of sources, relevant regulations, and inspections. The Compliance Assistance Section (CAS) serves both the regulated community and air enforcement agencies by providing appropriate technical publications and visible emissions evaluation training.

The CAS develops and publishes a variety of technical manuals on interactive CD, self-inspection handbooks, and pamphlets for industry and government. To create these publications, CAS staff routinely works with government agencies, private industries, and the local air pollution control districts. Training Section staff also work closely with CAS staff to develop these materials. The technical manual CDs are the primary references used in the training courses and provide in-depth, source-specific information for inspectors and facility environmental specialists. The handbooks and pamphlets explain source-specific regulatory and compliance programs in everyday terms. They are brief (15 to 25 pages), colorful, and easy to read, with helpful inspection checklists, flowcharts, diagrams, and illustrations.

The two components of the Visible Emissions Evaluation (VEE) program are the Fundamentals of Enforcement (FOE) training course and the VEE Recertification program. FOE is a basic overview of air pollution and enforcement of air pollution regulations emphasizing evaluation of visible emissions. It is prerequisite to becoming VEE-certified in accordance with U.S. EPA Reference Method 9 (EPA Method 9). The 1½ -day classroom session is followed by a ½-day field practice and VEE certification session. An open VEE certification/recertification session for both new and returning students is held the following day. Certification is valid for six months and is required of most district enforcement staff. To help meet this requirement, VEE program staff schedule recertification sessions on a six-month rotation throughout the state during the year.

Using CAS publications and (where applicable) visible emissions evaluation skills, businesses are better equipped to perform routine self-inspections to improve compliance, and enforcement personnel can more effectively plan and conduct inspections.

Program Highlights

Publications

In 2005, CAS staff:

- Distributed 11,205 copies of publications: 5,710 Technical Manuals (including interactive and archival CDs), 4,856 Handbooks, and 639 Pamphlets.
- Recorded 66,192 hits on the Handbooks external webpage.
- Created and published an interactive CD technical manual on “Chrome Plating and Anodizing Facilities.”

The CAS currently has 33 handbooks and pamphlets in print and/or on-line and 34 technical manuals on CD.

In 2005, six requests were made by local air agencies and private companies in California and other states to adapt CAS materials for use in their programs.

Support of Other ED Sections

The CAS staff created and distributed the 2005 Training and Compliance Assistance Survey to all the local air quality agencies in California. The results of this survey were used to plan the 2006 training schedule and to prioritize which publications would be updated or developed in 2006.

To assist in the development of the Basic Inspector Academy on-line training component, CAS staff with experience in web-based training development continued to act as liaison between Cal/EPA content development staff and UC Davis design staff. This person expedited both the timely completion of the content of the different training modules and the incorporation of this material into a suitable web-based format.

FOE Program

Seven FOE courses (#100) were conducted in 2005, with a total attendance of 257 private sector and government agency personnel.

The VEE Program staff held two additional FOE courses by special request in 2005. The first was provided exclusively for construction managers contracting with the Sacramento Regional Sanitation District to meet an Environmental Impact Report (EIR) mitigation measure requirement. Those certified will be reading emissions primarily from diesel-powered construction equipment. The second exclusive FOE was held in Chico for Baldwin Construction Company. Several of their operations had been cited for opacity violations, so the company agreed to train some of their field staff to read visible emissions.

VEE Re-Certification Program

Forty-eight VEE day and night certification/recertification sessions were completed in 2005, including seven partial day sessions for FOE attendees following earlier practice sessions. A total of 1,501 people were successfully certified or recertified in 2005.

Other VEE-Related Training

At the request of South Coast Air Quality Management District (SCAQMD), VEE Program staff also conducted two special VEE training sessions in Diamond Bar for community leaders and businesses. These sessions were offered as part of the SCAQMD's Environmental Justice Program.

The VEE Program staff and management conducted a Visible Emissions Evaluation Operator Workshop (Course #370) in Sacramento at the request of U.S. EPA. Participants included ARB VEE program managers and staff, as well as government and private professionals involved in VEE regulations and research from throughout the United States and Puerto Rico. The workshop included classroom-based presentations, discussions, and networking, as well as field learning opportunities.

Assistance Provided for El Dorado County AQMD Smoke Test

In November 2005, VEE program staff responded to a request from El Dorado County AQMD to assist in resolving a complaint about excessive dust by a citizen living just north of the Sierra Rock Webber Creek Quarry in El Dorado Hills. In particular, district staff contended that photos of alleged dust emissions submitted by the complainant were not a valid indication that opacity limits were exceeded, because the photos were taken with the sun in front of the camera/reader and therefore not in accordance with EPA Method 9.

District staff believed that visual and photographic documentation of the effects of sun angle on known opacities of visible smoke plumes at the quarry would provide evidence to support whether or not dust levels were in violation of the district standard as alleged by the complainant. The ARB VEE program staff assisted in providing this evidence by using the smoke generator at the quarry to produce known opacities of smoke while district staff took photos and performed Method 9 visible emission evaluations facing north and south. Analysis of the data showed that sun angle did affect the readings and photos as expected, resulting in higher readings when the sun was in front of the camera/readers. The district plans to include these results in follow-up with the complainant.

ARB ENFORCEMENT DIVISION ACTION ITEMS FOR 2006

GENERAL ENFORCEMENT

- Continue to improve and enhance the ARB enforcement program web page (<http://www.arb.ca.gov/enf/enf.htm>).
- Implement programs to prevent the sale of illegal products (e.g. consumer products, engines and vehicles) through mail order and Internet venues such as E-Bay.
- Continue to develop a unified enforcement case tracking database and upgrade current enforcement program databases for better functionality and efficiency.
- Continue Environmental Justice Strike Forces in selected communities in support of the ARB's Environmental Justice Action Plan.
- Continue the Environmental Justice pilot project in the three Southern California communities of Commerce, Wilmington (LA Port) and Mira Loma at the request of the ARB's Community Health Office and Planning & Technical Support Division (PTSD). Include locomotive and heavy-duty diesel truck emissions enforcement in these communities.
- Implement the "ARB Enforcement Strategic Plan."
- Continue the work of the Cal/EPA Strategic Enforcement Intelligence Team.
- Continue to participate in the monthly Cal/EPA Enforcement Managers meetings and enforcement strike forces statewide.
- Foster exchange of expertise and learning through active participation in environmental task forces.
- Target compliance initiatives with enforcement components in specific sectors.
- Develop and expand institutional capacity to enhance existing and develop new environmental enforcement programs.
- Implement an enforcement program for the railroad MOU.
- Continue an enforcement program for "Carl Moyer Program" fraud.
- Ensure a vigorous response to complaints that allege a breach of environmental law and determine if a violation has occurred.
- Resolve citizen complaints within 90 days of first receipt.
- Increase air district involvement with citizen complaint cases.
- Increase assistance to the state's air districts.

- Foster cooperative bonds between the ARB, the air districts, and U.S. EPA.
- Ensure all enforcement actions are timely, effective, and appropriate to the severity of the situation.
- Ensure any repeated non-compliance activity results in escalating enforcement consequences.
- Ensure that all industry related enforcement operations are conducted in a responsible manner resulting in a level playing field.
- Enhance surveillance capabilities and provide surveillance training to regulatory agencies. Explore new digital and low light technologies.
- Seek out training and development opportunities for staff.

MOBILE SOURCE ENFORCEMENT

- Continue inspections at points of distribution and retail outlets for illegal engines and vehicles.
- 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.
- Design and implement new Heavy Duty Vehicle Inspection (HEVI) database.
- 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 continued participation in the Tri-National Heavy-Duty Vehicle Inspection and Maintenance Working Group.
- Develop internal procedures for implementation of AB 1009 Engine Certification enforcement.
- Continue aggressive enforcement of ARB's Off-Highway Vehicle (OHV) regulations.
- Focused enforcement of illegal motor homes.
- Continue aggressive enforcement of ARB's Large Spark-Ignited Engine and Non-Road regulations.
- Continue 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 collections of delinquent citations from the HDVIP.
- Continue aggressive enforcement of the 49-state vehicle program.
- Continue the aggressive enforcement against illegal motorcycles including on and off road motorcycles.
- Establish an effective enforcement program focusing on the Asian import market for illegal vehicles and engines (scooters, pocket bikes, OHVs, etc.) in cooperation with the U.S. EPA and federal/state and local prosecutors.
- Implement, with local law enforcement and the CHP, a taxi cab tampering enforcement program at major California airports (LA World Airports, San Francisco, San Jose, Oakland, and Sacramento).
- Revisit high concentration used car dealer areas to ensure vehicles offered for sale have all of the required emissions control systems.
- Continue work with the California Department of Motor Vehicles, California Highway Patrol, local law enforcement agencies toward improving compliance with ARB's regulations (49-state vehicles, gray market vehicles, off-road motorcycles, gas-powered scooters, pocket bikes, street racers, etc).
- Continue aftermarket parts enforcement and peace officer training to discourage emission control system tampering and street racing.
- Continue to enforce the School Bus Idling regulations and train school districts on program compliance.
- Implement regulations for the control of emissions from Transportation Refrigeration Units (TRUs) and enforce these regulations upon adoption.
- Continue aggressive enforcement of regulations requiring the upgrading ("reflashing") electronic on-road heavy-duty diesel engines that exhibit high NOx emissions in-use and enforce these regulations.
- Continue aggressive enforcement of new regulations for the control of diesel particulate emissions from on-road heavy-duty solid waste collection vehicles.
- Continue to improve the smoking vehicle complaint database and web site and administer the smoking vehicle complaint program.
- Continue to improve the web sites and complaint databases for idling vehicles for the school bus idling enforcement program and the heavy duty diesel vehicle idling enforcement program.

- Continue aggressive enforcement of Heavy Duty Diesel Commercial Vehicle Idling enforcement program.
- Work with the Mobile Source Operations Division and Mobile Source Control Division (MSOD/MSCD) to develop new regulations for after-market On-Board Diagnostics II (OBD II) catalysts and continue OBD II catalyst enforcement at exhaust/muffler shops statewide.

STATIONARY SOURCE ENFORCEMENT

- Continue aggressive enforcement of the Asbestos NESHAP.
- Conduct at least two Air Facility System (AFS) audits of non-grantee districts.
- Conduct at least two Asbestos NESHAP Task Force Meetings.
- Conduct at least two Hearing Board workshops related to stationary sources of air pollution to train hearing board members, industry and district staff on variance issuance requirements.
- 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.

Consumer Products Enforcement:

- Maintain the frequency and distribution of inspections at retail, commercial, and internet outlets for consumer products and aerosol coatings while focusing on categories where limits became effective in 2005, where the sell-through period has expired, or where non-compliance rates are high.
- Work with regulatory development staff to ensure that new provisions proposed for 2006 adoption into the Consumer Products regulations are enforceable.
- Eliminate the sales of non-complying kerosene containers and utility jugs which are being used as portable fuel containers and assist in the development of the certification program for portable fuel containers to enhance enforceability.

Fuels Enforcement:

- Continue vigorous enforcement of motor vehicle fuels regulations by conducting frequent inspections of production, distribution and retail facilities.
- Continue enforcing the Cargo Tank Vapor Recovery regulations with inspections of cargo tanks.

- Continue to investigate violations and resolve cases of motor vehicle fuels regulations and cargo tank regulations.
- Continue conducting survey of vapor recovery systems at gasoline dispensing facilities throughout California.
- Continue to settle fuels reporting cases by consulting with counsel from the ARB's Legal Office and determining settlements vs. referring of all cases to ARB's Legal Office.
- For upcoming cases which include potential criminal violations, develop cases for referral for criminal prosecution.
- 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 and to update fuels protocols.
- Continue the enforcement of diesel fuel production by conducting ongoing audits of small refiners.
- Continue the enforcement of ethanol blend rate and additives in gasoline by conducting ongoing audits of gasoline terminals.
- Continue cooperative effort with the Stationary Source Division to improve the enforceability of motor vehicle fuels regulations.
- Install two additional fume hoods in the New Mobile Fuels Laboratory to increase testing capability and as an additional safety measure.

TRAINING AND COMPLIANCE ASSISTANCE

- Complete and distribute Fugitive Dust interactive CD (summer 2006).
- Complete and distribute Aggregate Plants interactive CD (summer 2006).
- Complete and distribute Naturally-Occurring Asbestos handbook (covering provisions of Asbestos ATCMs) by July 2006.
- Conduct seven Fundamentals of Enforcement (FOE) courses and one special VEE Certification course focusing on railroad operations.
- Conduct 37 day VEE re-certification sessions, and 12 night VEE re-certification sessions, resulting in approximately 1,600 people becoming Method 9 certified/re-certified.

- Fully deploy new smoke generator to have smoke generators stationed in northern and southern California.
- Create and coordinate inter-division compliance assistance workgroups for outreach to the motorcycle and small off-road equipment sectors.
- Continue to collaborate with Training Section on Basic Inspector Academy and other on-line training development.
- Update and conduct the 14th Annual Environmental Cross Media Enforcement Symposium.
- Update and conduct 30 training courses including, but not limited to, lesson plans, handouts and slide presentations to reflect the latest rules and regulations.
- Redesign and develop new training courses to match the new demands from the target audiences as new rules and regulations are promulgated, including but not limited to Transport Refrigeration Units (TRU), Fugitive Dust Emission for Fundamental of Enforcement (FOE).
- Investigate and adopt new technologies as training tools in classroom to facilitate and improve student learning, including the 100s series classes.
- Experiment on-line training for certain segment of the training materials in order to reduce traveling time and expenses for trainers and trainees, including the Cal/EPA Basic Inspector Academy to be developed in conjunction with the University of California at Davis.
- Research and expand the target audience for all training courses in order to provide a cost-effective training program to increase compliance and reduce emissions, including two (2) outreach programs for the Transport Refrigeration Unit (TRU).

2005 APPENDICES

Appendix A

Table A-1
Enforcement Accomplishments for 2005

Program	Settled/Closed	Penalties*
Mobile Sources**	1,492	\$11,272,208
Fuels	20	\$75,000
Consumer Products	36	\$440,800
Portable Fuel Containers	4	\$12,000
Cargo Tanks	20	\$18,000
Stationary Source/Other	4	\$21,500
Totals	1,576	\$11,839,508

*Include supplemental environmental projects, early compliance costs, etc.

**Include cases investigated by other divisions and settled by the Office of Legal Affairs.

Table A-2
Case Dispositions

Category	Number Cases	Penalties
Civil Cases Pending*	32	\$0
Criminal Cases Pending**	6	\$0
Administrative Cases Closed	1,576	\$11,839,508
Total Cases Closed:	1,576	\$11,839,508
Supplemental Environmental Projects (SEPs)	1	\$25,000

*In 2005, 32 civil cases were pending litigation or settlement with the attorney general or various district and city attorneys statewide. A number of these cases started as criminal referrals and the assigned prosecutor filed them as civil actions.

**In 2005, six (6) criminal cases were pending prosecution with the attorney general or various district and city attorneys statewide.

Key:

Civil or Criminal Cases are cases that are referred to the Attorney General's Office or a local District Attorney (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 (ALJ) (this applies to Heavy-Duty Vehicle Inspection Program cases only), or through an administrative hearing before a State Office of Administrative Hearings ALJ.

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

Supplemental Environmental Projects (SEPs) are programs under which 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.

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 2005, including mobile sources, consumer products, fuels, and stationary sources cases.

MOBILE SOURCE CASES

Portosan Company, LLC. – \$100,000 Settlement

In September 2005, Portosan Company, LLC (Portosan) agreed to pay \$100,000 in penalties (\$75,000 to the California Air Pollution Fund and \$25,000 to the California Community Colleges participating in the California Council on Diesel Education and Technology (CCDET) Program) for violating air quality regulations. An investigation by the ARB showed that Portosan of El Monte, California failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. The ARB documented numerous counts of violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Portosan agreed to the \$100,000 penalty and to comply with the PSIP. They also agreed to install low NO_x software on all applicable heavy duty diesel engines in their fleet and to have their maintenance staff trained under ARB's CCDET program.

Pep Boys Case - \$100,000 Settlement

During December 2005, the ARB settled a case with the Pep Boys involving the sale and offer for sale of gas powered scooters and generators that were not certified for sale in California. This settlement is part of an investigation that included the manufacturers, distributors, and other retailers of these products. In addition to improving their product distribution process, the Pep Boys settlement included a payment of \$100,000 to the Air Pollution Control Fund.

Vantage Mobility International – \$65,000 Settlement

Vantage Mobility International (VMI) settled with the Air Resources Board for violations to the California Health and Safety Code (HSC) and Vehicle Code (VC) involving the California sale of uncertified conversion vans. VMI converts vans to appropriate configurations for handicap people offering them the freedom of personal

transportation. Between 1996 and 2002, VMI offered for sale and sold uncertified converted Daimler Chrysler and Ford vans with VMI conversion kits in California. Such modifications included relocating and replacing the OEM fuel tank with VMI fuel tank, removing OEM emission control components and reinstalling them with modifications, and relocating the carbon canisters and extending fuel and vapor hoses. VMI performed these modifications without possessing an Executive Order issued by ARB exempting said modifications from the prohibitions of VC 27156. In mitigation efforts, VMI applied for and received a VC 27156 exemption from ARB and recalled the affected vans. VMI went to great lengths over a period of two years to recall as many of the affected vehicles as possible and performed corrective actions to configure the vans into an authorized California configuration. The retrofit campaign enabled the owners to keep their specialized vehicles. In addition, VMI paid \$65,000 to the Air Pollution Control Fund in settlement of this case.

California Auto Dealers Exchange – \$62,416 Settlement

In April 2004, the ARB cited the California Auto Dealers Exchange (CADE) for selling dirt bikes, pocket bikes, ATVs and go-karts equipped with non-certified engines at a dealer-only, auto auction in Rosemead. CADE immediately stopped selling these non-compliant vehicles and recalled all remaining stock from all its auction locations in California. In addition, CADE provided a list of non-compliant vehicles it may have inadvertently introduced into commerce in California.

The ARB reached a settlement agreement with CADE for \$62,416 which was paid to the California Air Pollution Control Fund in 2005.

Lucky 7 Choppers – \$12,500 Settlement

On January 15, 2005, an inspection was performed at Lucky 7 Choppers in Rancho Cucamonga, and it was found that they were manufacturing and offering for sale non-California certified custom motorcycles to California residents. A Notice of Violation was issued for motorcycles found in violation of HSC 43150-43153. Lucky 7 Choppers corrected the violations by providing proof that the motorcycles were removed from California. On May 7, 2005, Lucky 7 Choppers signed a settlement agreement with the ARB to settle violations of the HSC and paid \$12,500 to the Air Pollution Control Fund. Lucky 7 Choppers is now in the process of getting certification from the ARB to legally manufacture and sell their motorcycles to California residents.

La Mesa RV – \$12,000 Settlement

An ARB investigation discovered non-certified Forest River Sunseeker motorhomes at two La Mesa RV dealerships located in Davis and San Bernardino had been sold to California residents. Consequently, La Mesa RV settled the case and paid \$12,000 in penalties for selling illegal vehicles.

American Power Products and CSK Auto Inc. - \$200,000 Settlement

In September 2003, the ARB cited CSK Auto Inc. (CSK; dba Kragen Auto Parts) for selling motorized kick-scooters equipped with non-certified engines at Kragen Auto Parts stores in California. CSK had purchased the non-compliant scooters from American Power Products (APP). Upon notification, CSK immediately pulled the remaining scooters from store inventories and APP replaced them with a new model equipped with a California certified engine. In addition, APP reported that returns from consumers were very high and APP has re-powered all returned scooters with compliant engines. In May of 2004, the ARB cited CSK again, this time for selling generators equipped with non-California certified engines at Kragen stores. Again, the supplier of the non-compliant generators was APP. This time, however, a certification application had been submitted to the ARB but the units were inadvertently released to CSK before all the certification requirements had been met.

CSK has settled this matter with the ARB for \$100,000. The ARB also reached a settlement with APP for \$100,000.

Sojitz - \$45,000 Settlement

In December 2003, ARB staff cited motorized kick-scooters offered for sale at a Bay Area chain of auto parts stores. The scooters were equipped with non-California certified engines. Further investigation revealed that Nichimen of America Inc. now doing business as Sojitz Corporation of America distributed many of these non-compliant engines in California. Unfortunately, it was not possible to recall these engines from consumers in California. The ARB and Sojitz reached a settlement agreement in the amount of \$45,000.

Chrysler/Dodge Trucks - \$1,000,000 Settlement

The ARB reached a settlement with DaimlerChrysler Corporation (DCC) to extend warranty coverage for catalytic converters on more than 90,000 light- and medium-duty trucks and vans built between 1996 and 1999. The auto manufacturer also agreed to recall on-board diagnostic (OBD) systems in about 40,000 of these vehicles and to pay \$1 million dollars to the ARB.

Forest River Inc. – \$333,000 Settlement

On-going investigations into the importation and sale of uncertified vehicles in California uncovered numerous illegal non-CA certified Sunseeker RVs sold to California residents throughout the state. The ARB and the Office of Legal Affairs (OLA) staff reached a settlement with the manufacturer, Forest River Inc. in Indiana, which included a payment of \$333,000 to the Air Pollution Control Fund.

Homelite Consumer Products, Inc. - \$500,000 Settlement

In February 2005, ARB staff visited the Homelite certification emissions test facilities in Anderson, South Carolina, to perform new engine compliance testing as authorized by the California Code of Regulations (CCR), Title 13, sections 2400-2409. Thirty

engines from Homelite's 2004 model year 30 cubic centimeter California engine family were emissions tested, with 16 of them exceeding the engine family's emission limit (FEL). Twenty-two engines failed to complete the break-in period of 12 hours and two engines seized during emissions testing. Based on the emissions test results, ARB determined that the engine family was in noncompliance with the HC+NO_x emissions limit. Consequently, ARB suspended the executive order (EO) and ordered Homelite to halt shipment of any more engines from their facility.

After discussions with ARB, Homelite agreed to settle the case by agreeing to pay a fine of \$500,000 to the Air Pollution Control Fund pursuant to section 43016 of the Health and Safety Code and to fulfill other remedial actions specified in the settlement agreement. Subsequently, Homelite was issued an amended EO for the subject engine family increasing the HC+NO_x FEL to 54 g/bhp-hr from 46 g/bhp-hr.

Caterpillar, Inc. - \$8,247,015 Settlement

In 1998, the ARB entered into settlement agreements with certain heavy-duty diesel engine manufacturers, including Caterpillar, for alleged violations of emissions standards based on the manufacturers' use of what U.S. EPA and ARB alleged were "defeat devices" in 1993-1998 engines. This has been referred to as an "off-cycle" emissions issue, meaning that the subject engines emit more in certain common driving situations (e.g. highway cruising speed) than what required engine testing would show.

Pursuant to paragraphs 118-119 of the Settlement Agreement (December 15, 1998, as amended May, 2000, "Agreement") between Caterpillar and the ARB, Caterpillar paid \$8,247,015 in stipulated penalties to the Air Pollution Control Fund for failing to certify four model year 2003 heavy-duty engine families to one or more of the applicable NO_x plus non-methane hydrocarbon (NMHC) or PM limits. Payment was paid to the California Air Pollution Control Fund in 2005.

Cycle Imagery - \$25,000 Settlement

This company was building custom on-road motorcycles which were not certified to meet ARB emission standards. This case settled for \$25,000 in 2005 and the violator will now certify to ARB standards.

CONSUMER PRODUCTS CASES

CSK Automotive - \$14,000 Settlement

On November 9, 2004, an office conference was held with representatives from CSK Auto, Inc., the parent company of Kragen Auto Parts stores, to discuss the sale of non-compliant 20/10 DelCER Windshield Washer Cleaner (freeze protection to -25 degrees F) and non-compliant 20/10 All Season Windshield Washer Fluid in non-Type A areas of California. Samples of these non-complying products had been collected in May of 2003 and in August 2004. The case was settled on January 31, 2005 for a

payment of \$14,000. CSK Auto also agreed to upgrade its retail point of sale computer system to prevent similar violations in the future.

Kano Laboratories Inc. - \$15,000 Settlement

On March 25, 2005, a case was settled with Kano Laboratories for a payment of \$15,000.00. A notice of violation was issued to the company on February 1, 2005, for selling approximately 29,880 units of Kano Aero Kroil, a multi-purpose lubricant to institutional and household consumers. The sample products were obtained from an auto supply located in Santa Cruz, California. The samples exceeded the 50% by weight VOC limit for multi-purpose lubricants effective January 1, 2003.

United Industries Corporation - \$100,000 Settlement

On July 16, 2002, Enforcement Division staff obtained samples of the 12-ounce aerosol Schultz Housplant & Gardens Bug Spray from a Raley's grocery store in Redding, California. ARB's laboratory determined this product exceeded the volatile organic compound limit of 20 percent for crawling bug insecticide products. A total of 119,476 containers of non-compliant products were shipped to California. In May 2002, United Industries Corporation acquired the Schultz Company, including the Schultz Houseplant & Gardens Bug Spray product line. United Industries Corporation settled this case for \$100,000 on April 6, 2005.

TravelCenters of America – \$16,500 Settlement

On May 4, 2005, Enforcement Division staff finalized a settlement with TravelCenters of America to settle violations over the sale of non-complying windshield washer fluid in non-Type A areas of California. Samples were collected in Corning, California that exceeded the one-percent VOC for windshield washer fluids (pre-mixed) in non-Type A areas of California. A Notice of Violation was issued on February 3, 2005. The case with TravelCenters was settled for \$16,500 on May 2, 2005.

Saturn Corporation - \$21,000 Settlement

On May 4, 2005, Enforcement Division staff reached a settlement with Saturn Corporation over the sale of non-complying glass cleaner. Samples were obtained at the Saturn dealership in San Diego, California that exceeded the six-percent VOC limit for glass cleaners manufactured on or after January 1, 1996. A Notice of Violation was issued on December 29, 2004. On February 24, 2005, a teleconference with Saturn Corporation staff was conducted to discuss the NOV. On May 4, 2005, a settlement agreement was finalized for \$21,000.

303 Products - \$15,000 Settlement

On June 21, 2005, a case was settled with 303 Products Inc. for \$15,000.00. The first payment of \$5,000.00 was received with the signed settlement agreement with the remainder to be paid over the next year. An NOV was issued to the company on March 18, 2005 for selling approximately 15,506 units of non-compliant aerosol and

non-aerosol fabric protectant into California. The sample products were obtained from a car dealership in Roseville, California.

U-Haul International, Inc. - \$20,000 Settlement

After January 1, 2001, U-Haul International, Inc. sold approximately 3,196 units of U-Haul Traffic Lane Cleaner which exceeded the three percent VOC limit for non-aerosol carpet and upholstery cleaners in the Consumer Products Regulations. U-Haul International, Inc. also sold approximately 4,394 units of U-Haul Spot and Stain Remover product in California that exceeded the 8 percent VOC limit for non-aerosol Spot Removers. On September 7, 2005, U-Haul International, Inc. settled this case for \$20,000.

Amrep Incorporated - \$14,000 Settlement

On June 17, 2003 Enforcement staff obtained a sample of Toyota Fabric Spot Remover from a Toyota dealer in Kerny Mesa, California. The VOC content of the Toyota Fabric Spot Remover product exceeded the 25% VOC limit for the aerosol "spot removers" category in the Consumer Products Regulation. It was determined that AMREP, Inc. sold, supplied, offered for sale, or imported for sale into California approximately 11,013 containers of the product since January 1, 2001. On September 9, 2005, AMREP, Inc. settled this case for \$14,000.

AutoZone West, Inc. - \$10,000 Settlement

During a routine inspection on March 19, 2003, Enforcement Division staff obtained a one gallon sample of *SPLASH Windshield Washer* (Protects to 20 °F below zero) from an AutoZone retail store in Visalia, California. This store is located in San Diego County which is a "non-Type A" area of California. The ARB's laboratory analyzed the VOC content of this sample and determined it exceeded the VOC limit for the "automotive windshield washer fluids" regulated category in the Consumer Products Regulation. This sample was manufactured on August 12, 2002 and had to meet a 10% VOC limit. Between November 2001 and November 2003, AutoZone sold approximately 2,104 gallons of *SPLASH Windshield Washer* in non-type A areas of California. After a referral to the Office of Legal Affairs, the case was settled on November 2, 2005 for \$10,000.

Walgreen Company - \$70,000 Settlement

During a routine inspection on October 19, 2002, Enforcement Division staff obtained a sample of the one-gallon *Peak Performance Products All Weather Windshield Washer -20 °F* from a Walgreen's store in Sacramento, California. This store is located in Sacramento County which is a "non-Type A" area of California. The laboratory result showed the product exceeded the 10% VOC limit for the "automotive windshield washer fluids" category in the Consumer Products Regulation. Between October 2001 and October 2003, the Walgreen Company sold 30,768 one-gallon containers of non-compliant windshield washer fluid in non-type A areas of California. On November 10, 2005, the Walgreen Company settled this case for \$70,000.

Ace Hardware Corporation - \$40,000 Settlement

During a routine inspection on October 24, 2002, Enforcement Division staff obtained a sample of the one-gallon *Ace Windshield Washer All Season -20 °F Below Zero* from Emigh Ace Hardware in Sacramento, California. The laboratory results exceeded the 10% VOC limit for the “automotive windshield washer fluids”. Ace Hardware Corporation sold approximately 21,368 gallon units of the non-compliant windshield washer fluid between October 1999 and October 2002. After referring the case to the Office of Legal Affairs, Ace Hardware Corporation settled the violations for \$40,000 on November 21, 2005.

Zotos International Inc. – \$25,000 Settlement

Zotos’ Naturelle case was settled on December 9, 2005, for a payment of \$25,000. An NOV was issued to Naturelle, a subsidiary of Zotos, on December 15, 2003, for selling hairspray at both retail and wholesale outlets in California that contained concentrations of VOCs exceeding the 55% by weight VOC limit for hairspray specified in Title 17, California Code of Regulations, Section 94509(a). This was the third NOV issued to Zotos since 2000.

FUELS CASES

Valero Case – \$7,500 Settlement

Valero self-reported their failure to make proper notification of a marine vessel import on July 3, 2003, on the vessel O/S Philadelphia. One of the tanks into which the fuel was offloaded was designated a production tank, and a predictive model was in effect for that tank which the imported fuel did not meet, although it met all flat limits. The case was settled for \$7,500

Shell Oil Case – \$20,000 Settlement

On June 5, 2003, Shell’s Carson refinery shipped two tenders of Arizona premium gasoline to the Kinder Morgan terminal in San Diego instead of CARB premium MTBE gasoline as ordered by Valero which owns both products. The gasoline did not meet CARB T90 standards. The case was settled for \$20,000.

Shell Oil Case – \$9,500 Settlement

Shell reported that on June 18, 2004, an import of diesel fuel from Malaysia had arrived without a first notification to ARB as required by their protocol. A new trader had failed to notify the appropriate Shell staff about the import until it was too late. The case was settled for \$9,500.

Shell Oil Case – \$15,000 Settlement

On March 25, 2003, at Shell's Carson refinery, approximately 22,000 barrels of premium grade conventional gasoline was inadvertently added to their regular grade California Reformulated Blendstocks for Oxygenated Blending (RBOB) gasoline tank. The case was settled for \$15,000.

Coastal Transportation - \$10,000 Settlement

On February 16, 2005, Coastal Transportation received two NOVs at the Kinder Morgan Terminal in San Diego. Subsequently, on February 17, 2005, ARB investigator discovered the tanks were illegally vented to atmosphere (degassed) overnight in preparation for repairs. Two additional NOVs were issued. Coastal Transportation settled for \$10,000.

STATIONARY SOURCE CASES

Driscoll Surf & Skate and Duggins Construction - \$3,000 Settlement

Driscoll Surf & Skate and Duggins Construction violated the asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP) by failing to submit a demolition/renovation notification form and wait ten days prior to demolition. Settlement was made in November 2005.

Yubacon Inc. and R & O Construction - \$4,000 Settlement

Yubacon Inc. and R & O Construction violated the asbestos NESHAP by failing to submit a demolition/renovation notification form and wait ten days prior to demolition. Settlement was made in December 2005.

Bankhead Equipment and Le High Southwest Cement Company - \$5,000 Settlement

Bankhead Equipment and Le high Southwest Cement Company violated the asbestos NESHAP by failing to submit a demolition/renovation notification form and wait ten days prior to demolition. Settlement was made in December 2005.

Surface Trend, Raleys and Commercial Dynamics - \$9,500 Settlement

Surface Trend, Raleys and Commercial Dynamics violated the asbestos NESHAP by failing to submit a demolition/renovation notification form and wait ten days prior to demolition. Settlement was made in February 2005.

In 2005, all Strategic Environmental Investigations and Enforcement Section (SEIES) cases were settled at the air district level.

Appendix C

**Mobile Source Enforcement
Program and Inspection Activities – 2005**

**Table C-1
Heavy-Duty Vehicle Inspection Program**

Number of Inspections	17,243
Number of Violations	1,461
Failure Rate	8%
Appeals Received/Closed	14/10
Violations Closed	881
Current HDVIP II Penalties Assessed	\$429,000
Current HDVIP II Penalties Collected	\$270,525
Delinquent HDVIP I/II Citations Closed	319
Delinquent HDVIP I/II Penalties Collected	\$146,939
Total HDVIP I/II Penalties Collected	\$417,464
Trucks Held under VC 27159 by CHP*	44

*If a citation is in delinquent status and is encountered during a roadside inspection, under Vehicle Code 27159 (VC 27159) California Highway Patrol (CHP) will often hold the truck until payment is received.

**Table C-2
Smoking Vehicle Complaint Program**

Letters Sent	1,968
Responses Received	674
Compliance Rate	34%

Table C-3
School Bus ATCM Enforcement and Outreach

School Districts Contacted	256
Schools Contacted	696
Presentations	22
School Bus Spot Checks	775
Complaints Received	5
Advisory Letters Sent	5
Compliance Rate	100%

Table C-4
Commercial Idling Complaint Program

Notice of Violation (NOV)*	1
Commercial Vehicle Spot Checks	522
Complaints Received	344
Advisory Letters Sent	344
Responses Received	51
Response Rate	15%

*2005 implementation phase-in; 2006 to date over 50 NOVs issued.

Table C-5
Certificate of Non-Compliance (49-State Vehicle) Program

Certificates Received	1,219
Certificates Reviewed	243
Cases Opened	53
Cases Closed*	56
Penalties Received	\$298,994

*Cases closed exceeded cases opened in 2005 because of open carry over cases from 2004 and earlier.

Table C-6
Heavy Duty Diesel Low NOx Reflash Enforcement Inspections

Month/Year	Inspections	Cited
December 2005	99	7

*Program enforcement implemented in December 2005.

Table C-7
Administrative Hearings

Number of Cases	14
Number Closed	11
Number Pending	3
Settled	11

Table C-8
Ports and Environmental Justice Inspections

Road Side Inspections	47
HDVIP Inspections*	8134
HDVIP Citations*	601
HDVIP NOVs*	172
Total Violations	773

*Note: The figures in this table are integrated in Table C-1

Appendix D

**Fuels and Consumer Products Enforcement
Inspection Activities -- 2005**

Table D-1
Consumer Products Inspections and Samples

Samples Obtained	1,873
Lab Results Received	1,863
Alleged Violations	519
Notices of Violation Issued	47

Table D-2
Portable Fuel Containers and Spouts

Number of Inspections	284
Samples Obtained	170
Notices of Violation Issued	9

Table D-3
Cargo Tank Vapor Recovery Certification*

Cargo Tanks Inspected	820
Cargo Tanks Tested	297
Cargo Tanks Certified	5,055
Pressure Violations (nitrogen test)	17
Uncertified Equipment Violations	1
Liquid Leak Violations	2
Annual Tests Observed	182

*Includes tanks inspected during strike forces.

Table D-4
Motor Fuel Inspection Summary

Number of Samples	3,256
Number of Analyses	26,457
Reid vapor pressure	2,189
Sulfur	3,213
Oxygen	2,849
Benzene	2,849
Total aromatics	2,826
Olefin	2,853
Distillation, T50	2,848
Distillation, T90	2,848
Aromatic hydrocarbon (diesel fuel)	578
PAH (diesel fuel)	578

Table D-5
Gallons Represented in Sampling

Gasoline	724,053,000
Diesel	154,110,000

Table D-6
BOE Dyed Diesel Program*

Number of Inspections	14,624
Number of Violations	33

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

Appendix E**Stationary Source Enforcement**
Air District Oversight Activity -- 2005**Table E-1**
Asbestos Enforcement Activity

Notifications Received	432
Demolition/Renovation Inspections	20
Violations Issued	4
Violations Settled	4
Penalty Amount Received	\$21,500
Samples Collected	16
Samples Analyzed	16
Related Phone Calls/E-Mails Received	429
Workshops Conducted	2
Out Reach Training	2
Special Projects	4

Table E-2
Hotline Complaints Activities

Total Complaints Received	460
Stationary Source	169
Vapor Recovery	117
Smoking Vehicle	47
Questions Answered	127
Referrals to Air Districts	286
District Responses Received	203
Referred for Investigation	2
Referred to Other ARB Divisions	14
Referred to Other Agencies	79
Request for Assistance	42
Reports Completed	31
Special Projects	47

Table E-3
Variance Activity

Variances Received	651
Variances Reviewed*	686
Notices Received	496
Variances Questioned	24
Variances Returned	2
Issues Addressed	1,080
Workshops Conducted	1
Audits	5
Executive Officer Hearings	1

*Variances reviewed exceeded variances received in 2005 because of open carry over variances from 2004.

Table E-4
Air Facility System (AFS) Compliance Data

Reports Received	50
Reports Entered	29
Issues Addressed	303
Reports Sent to Districts	80
Audits Conducted	5
CEM Summaries Received	126

Table E-5
Air Facility System (AFS) High Priority Violators (HPV)

Reports Received	177
Reports Entered	16
Issues Addressed	271
Reports Sent to Districts	327
Audits Conducted	5

Table E-6
Continuous Emissions Monitoring (CEMs) Program Activity

Total Reports Received	2,736
NO _x	591
SO ₂	537
H ₂ S	402
CO	502
Opacity	704

Table E-7
Air District Rule Review

Rules Received	300
Rules Reviewed	290
Rules Commented On	8

Table E-8
Strategic Environmental Investigations

TYPE OF ACTIVITY	TOTAL
Continuing Investigations	7
New Investigations	5
Cases Closed*	6
Cases Referred for Investigation	1
Cases Referred for Prosecution	4
Continuing Prosecution	10
Investigative Assistance	10
Continuing Surveillance	7
New Surveillance	16
Surveillance Closed	20
Source Inspections	11
Task Force Meetings Attended	53
Special Projects	24

* These were closed by the local air districts.

Appendix F**Enforcement Division Contacts and Other Information**

<http://www.arb.ca.gov/enf/enf.htm>

Division Contacts:

Division Chief	James R. Ryden	(916) 322-7061
Division Secretary	Anita Ortiz	(916) 322-7061
Enforcement Database Coordinator	Reggie Guanlao	(916) 445-2815
Enforcement Division Administrative Coordinator	Valerie Sarver	(916) 322-2659
Enforcement Division Regulations Coordinator	Elizabeth Miller	(916) 322-6212
Enforcement Division Case and Programs Coordinator	Ryman Simangan	(916) 322-0355
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	Judy Lewis	(916) 322-1879
Manager, Heavy-Duty Diesel Enforcement Section – South	Darryl Gaslan	(626) 450-6155
Manager, Heavy-Duty Diesel Enforcement Section – Border	Manfred Ochsner	(626) 350-6532
HD Diesel Field Supervisor – Northern California	Chuck Owens	(916) 445-2049
HD Diesel Field Supervisor – Southern California	Craig Pendley	(626) 450-6172
HD Diesel Field Supervisor – Border	Damacio Arevalos	(626) 350-6449
Citation Administration – Northern California	Renae Hankins	(916) 322-8275
Citation Administration – Southern California	Debbie Wiemer	(626) 450-6161
Citation Administration – Border	Gretchen Ratliff	(626) 350-6561
Collections Administration	Cheryl Morgester	(916) 322-2654
Administrative Hearings – Northern California	Cheryl Morgester	(916) 322-2654
Administrative Hearings – Southern California	Michele Burns	(626) 350-6490
Administrative Hearings – Border	Gretchen Ratliff	(626) 350-6561
PSIP Fleet Cases	Michele Burns	(626) 350-6490
CCDET Liaison	Michele Burns	(626) 350-6490

Stationary Source Enforcement Contacts:

Chief, Stationary Source Enforcement Branch	Chuck Beddow	(916) 322-6033
Manager, Fuels Enforcement Section	Mark Stover	(916) 322-2056

2005 Report of Enforcement Activities

Manager, Consumer Products Enforcement Section	Steve Giorgi	(916) 322-6965
CaRFG/Diesel Regulations Enforcement	Dickman Lum	(916) 327-1520
Case Development Program	Janice Ross	(916) 327-1526
Cargo Tank Enforcement Program	Brad Cole	(916) 322-3951
Cargo Tank Certification Program	Juli Sawaya	(916) 322-3034
Enforcement Program Web Pages	Mary Rose Sullivan	(916) 327-1523
Fuel Distributor Certification Program	Nelson Chan	(916) 445-0287
Fuels Inspection Program	Fred Schmidt	(916) 327-1522
Manager, Strategic Environmental Investigations & Enforcement Section	R.C. Smith	(916) 445-1295
Manager, Stationary Source Enforcement Section	Carl Brown	(916) 323-8417
Air Facility System (AFS)	James McCormack	(916) 324-8020
Agricultural Burning Program	Cheryl Haden	(916) 323-8410
Asbestos NESHAP Program	Ahmad Najjar/ Nestor Castillo	(916) 322-6036 (916) 322-0749
Complaint Hotline Program	Verna Ruiz	(800) 952-5588
Continuous Emission Monitoring Program	Verna Ruiz	(916) 327-7574
Variance Program	Vickie McGrath	(916) 324-7343

Training & Compliance Assistance Contacts:

Chief, Training & Compliance Assistance Branch	Mary Boyer	(916) 322-6037
Branch Registrar, Training & Compliance Assistance	Nancy Thompson	(916) 322-2227
Manager, Compliance Training Section	Louis Chiu	(916) 323-8412
Manager, Compliance Assistance Section	Mark Tavianini	(916) 327-0632
CAP Publications	Marci Fenske	(916) 327-7211
FOE/VEE Program	Min Li	(916) 327-1168

Other Contacts:

ARB Office of Legal Affairs	W. Thomas Jennings, Chief Counsel	(916) 322-2884
ARB Public Information Office	Jerry Martin, Information Officer	(916) 322-2990
ARB Complaint Investigations	Simeon Okoroike John Sarno	(916) 327-3529 (916) 323-0724
ARB Complaint Hotline (Alternative Number)	-	(800) 363-7664 (800) END-SMOG
ARB Enforcement Division Spanish Speaking Assistance	Anita Ortiz Hortencia Mora	(916) 323-8541 (626) 350-6590
Special Investigations/Collections	Jay Zincke	(916) 323-1608

- 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.