



California Environmental Protection Agency  
**AIR RESOURCES BOARD**

# 2009 Annual Enforcement Report



**Enforcement Division**  
**August 2010**

# **2009 ANNUAL ENFORCEMENT REPORT**

## **AIR RESOURCES BOARD ENFORCEMENT DIVISION**

**August 2010**

To learn more about ARB Enforcement Programs or to file an air pollution complaint,  
please visit

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

To file a complaint by phone, call the Statewide Hotline at (800) 955-5567

or

The Vehicle Complaint Hotline at (800) END-SMOG - (800) 363-7664.

This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use. To obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 322-8168.

## **TABLE OF CONTENTS**

<b>Acronyms .....</b>	<b>4</b>
<b>Executive Summary .....</b>	<b>7</b>
<b>Introduction .....</b>	<b>12</b>
<b>General Enforcement Programs .....</b>	<b>14</b>
<b>Mobile Source Enforcement Programs .....</b>	<b>15</b>
<b>Mobile Source Enforcement .....</b>	<b>15</b>
<b>Heavy-Duty Diesel Vehicle Enforcement .....</b>	<b>19</b>
<b>Stationary Source Enforcement Programs .....</b>	<b>28</b>
<b>Fuels Enforcement .....</b>	<b>28</b>
<b>Consumer Products Enforcement .....</b>	<b>32</b>
<b>Stationary Source Enforcement .....</b>	<b>35</b>
<b>Strategic Environmental Investigations and Enforcement .....</b>	<b>37</b>
<b>Greenhouse Gas Enforcement .....</b>	<b>46</b>
<b>Training and Compliance Assistance Programs .....</b>	<b>48</b>
<b>Compliance Training .....</b>	<b>49</b>
<b>Compliance Assistance .....</b>	<b>58</b>
<b>Enforcement Division Action Items for 2010.....</b>	<b>61</b>

## **2009 APPENDICES**

<b>A: Enforcement Case Summary Tables .....</b>	<b>68</b>
<b>B: Significant Case Settlements .....</b>	<b>70</b>
<b>C: Mobile Source Enforcement Inspection Activity .....</b>	<b>97</b>
<b>D: Fuels/Consumer Products Enforcement Inspection Activity .....</b>	<b>104</b>
<b>E: Stationary Source Enforcement .....</b>	<b>106</b>
<b>F: Compliance Training and Assistance .....</b>	<b>109</b>
<b>G: Enforcement Program Contacts .....</b>	<b>112</b>

**Acronym List**

AAOT	Air Academy Online Training
AB	Assembly Bill
AFS	Air Facility System
APCD	Air Pollution Control District
APCF	Air Pollution Control Fund
AQMD	Air Quality Management District
ARB	Air Resources Board
ASTM	American Society for Testing and Materials [Standards]
ATCM	Air Toxic Control Measure
BACT	Best Available Control Technology
B-HP	Brake-horsepower
BIA	Basic Inspector Academy
BOE	Board of Equalization
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CACADMV	California Department of Motor Vehicles
CACADOJ	California Department of Justice
CARBOB	California Reformulated Blendstocks for Oxygenate Blending
CaRFG3	California Reformulated Gasoline Phase III
CAS	Compliance Assistance Section
CCDET	California Council on Diesel Education and Technology
CCR	California Code of Regulations
CDPR	California Department of Parks and Recreation
CDRRR	California Department of Resources Recycling and Recovery
CEM	Continuous Emission Monitoring
CHP	California Highway Patrol
CNC	Certificate of Noncompliance
CPEB	Consumer Products Enforcement Branch
CPES	Consumer Products Enforcement Section
CPR	Consumer Products Regulation
CTS	Compliance Training Section
CUPA	Certified Unified Program Agency
DTSC	Department of Toxic Substances Control
ED	Enforcement Division
EJ	Environmental Justice
EO	Executive Order
EPA	Environmental Protection Agency
EVR	Enhanced Vapor Recovery
FCE	Full Compliance Evaluation
FOE	Fundamentals of Enforcement

GHG	Greenhouse Gas
HDVIP	Heavy-Duty Vehicle Inspection Program
HPV	High Priority Violation
HSC	Health and Safety Code
ICE	Internal Combustion Engine
IRS	Internal Revenue Service
ISO	International Standards Organization
LSI	Large Spark-Ignition
MBUAPCD	Monterey Bay Unified Air Pollution Control District
MDAQMD	Mojave Desert Air Quality Management District
MLD	Monitoring and Laboratory Division
MOU	Memorandum of Understanding
MSAB	Mobile Source Analysis Branch
MTBE	Methyl Tertiary-Butyl Ether
MY	Model Year
MSEB	Mobile Source Enforcement Branch
MSES	Mobile Source Enforcement Section
NACTDP	National Air Compliance Training Delivery Project
NESHAP	National Emissions Standards for Hazardous Air Pollutants
NOV	Notice of Violation
NOx	Nitrogen Oxide
NSR	New Source Review
NTC	Notice to Comply
OBD II	On-Board Diagnostics II
OEM	Original Equipment Manufacturer
OGV	Ocean-Going Vessel
OHRV	Off-Highway Recreational Vehicle
OLA	Office of Legal Affairs
PAH	Polynuclear Aromatic Hydrocarbons
PAU	Public Agencies and Utilities
PCCD	Peralta Community College District
PERP	Portable Equipment Registration Program
PM	Particulate Matter
PPM	Parts per Million
PSD	Prevention of Significant Deterioration
PSI	Pounds per Square Inch
PSIP	Periodic Smoke Inspection Program
PTSD	Planning and Technical Support Division
RR	Railroad
SAE	Society of Automotive Engineers
SB	Senate Bill
SCAQMD	South Coast Air Quality Management District
SDCAPCD	San Diego County Air Pollution Control District

SEIES	Strategic Environmental Investigations & Enforcement Section
SEIT	Strategic Enforcement Intelligence Team
SEMA	Specialty Equipment Manufacturers Association
SEP	Supplemental Environmental Project
SIME	Spark Ignition Marine Engine
SJUAPCD	San Joaquin Valley Unified Air Pollution Control District
SMAQMD	Sacramento Metropolitan Air Quality Management District
SORE	Small Off-Road Engine
SPA	Secretary for Environmental Protection [Baja California]
SSD	Stationary Source Division
SSES	Stationary Source Enforcement Section
SWCV	Solid Waste Collection Vehicle
SWRCB	State Water Resources Control Board
TCA	Training Compliance Assistance
TRU	Transport Refrigeration Unit
VDECS	Verified Diesel Emission Control Strategy
VEE	Visible Emissions Evaluation
VOC	Volatile Organic Compound



## **EXECUTIVE SUMMARY**

***“The Enforcement Division seeks to protect the environment and public health and provide safe, clean air to all Californians by reducing emissions of air contaminants through the fair, consistent and comprehensive enforcement of air pollution laws, and by providing training and compliance assistance.”***

### **- The Enforcement Division’s Mission Statement**

The California Air Resources Board (CARB, ARB, Board) continues to improve California’s air quality with steady progress. California’s air quality has improved significantly over the 40 year plus history of the ARB despite an approximate 400 percent increase in population during this period. Over the past two decades, the number of clean air days has doubled.

Despite this tremendous progress, California still has severe air pollution problems. Today, over 90% of California’s population, or approximately 33 million Californians, live in regions with unhealthy air. The American Lung Association’s *State of the Air Report 2010* stated “that the air quality in many places has improved, but that over 175 million people (across the United States)—roughly 58 percent—still suffer pollution levels that are too often dangerous to breathe. Unhealthy air remains a threat to the lives and health of millions of people in the United States, despite great progress. Even as the nation explores the complex challenges of global warming and energy, air pollution lingers as a widespread and dangerous reality.”

According to the American Lung Association, in 2009 the Los Angeles, Long Beach and Riverside areas had the nation’s highest levels of ozone pollution and California had 12 of the top 25 cities with the highest ozone pollution in the nation. Over 22 million Californians live in these areas. In addition, the Los Angeles, Long Beach and Riverside areas ranked number 3 for long-term particle pollution. Bakersfield had the worst short-term particle pollution in the nation. California is home to 5 of the top 10 cities with the highest year round particulate pollution and 11 of the top 25 cities with the highest short term particulate pollution. In spite of these statistics, California has taken great steps in improving its air quality. The strongest improvement came in the year-round (annual) particle pollution levels, but most of the cities with the highest ozone and short-term particle levels improved as well. These results show that cleaning up major sources of air pollution produces healthier air. However, the continuing problem demonstrates that more remains to be done, especially with existing diesel engines.

The Board and the local air pollution control districts (air districts) continue to enact progressive regulations for new and existing sources of air pollution, resulting in significant reductions in emissions. California’s laws require mobile and stationary sources to use the best available air pollution control technology. Over the past 40 years, ARB has reduced emissions from passenger vehicles by over 95% through the use of clean engine and fuel technologies.

In recent years, the Board has adopted more regulations to control emissions of Toxic Air Contaminants (TAC), particularly the toxic black soot emitted by the millions of diesel vehicles

and engines in use in California every day. In 1998, ARB identified diesel exhaust as a toxic air contaminant due to its link to cancer risk. Diesel exhaust is also linked to cardiovascular and cardiopulmonary diseases. In 2000, ARB issued a Diesel Risk Reduction Plan (DRRP), calling for the reduction of the public's exposure to diesel exhaust by 75 percent by 2010, and 85 percent by 2020. California is beginning to see the benefits of the DRRP and will continue to enjoy those benefits over the coming years. January 2010 marks an important time in the reduction of diesel pollution with many of the DRRP programs coming into full effect.

Diesel engines are ubiquitous: on our highways and roads, at construction sites and farms, in schoolyards, collecting trash in neighborhoods, and hauling cargo at air and maritime ports and rail yards. While ARB has successfully imposed strict emission standards on new models, the longevity of diesel engines keeps the older, higher-polluting engines in use. To address this issue, ARB has adopted a series of diesel vehicle and equipment fleet rules that require owners to repower (i.e. install a new engine), retrofit (i.e. install diesel exhaust filters that reduce soot by over 85 percent) or replace their diesel equipment or vehicles with new, clean engine models.

ARB regulates a growing universe of pollution sources in its fight for clean air. Cleaner fuels, gasoline dispensing vapor recovery systems, consumer products, on- and off-road vehicles and engines, and a host of air toxic control measures (ATCM) are just a few areas. While the sources are numerous and diverse, common to each regulation is the basic principle that air quality goals cannot be attained unless a high compliance rate is achieved.

Ideally, businesses faced with new regulations comply voluntarily and ARB offers education, outreach, incentive, and compliance assistance programs to assist them. Despite these efforts, complete compliance remains a challenge. This frustrates efforts to clean the air, and it disadvantages those who do comply by providing violators with an unfair economic advantage. ARB inspectors and investigators keep watch on those places where non-compliance is most likely, as well as in those areas where the illegal emissions have the largest adverse impact on public health.

Each new regulation expands the universe of inspection targets. In recent years, the Board's Enforcement Division (ED) has assumed an increasing number of responsibilities in all areas of the state. ED inspects heavy-duty diesel vehicles for engine certification compliance, smoke emissions, and tampering, affecting all diesel-powered trucks and buses operating in California, including those that cross the Mexican border. It seeks out and intercepts imports of illegal vehicles, engines and consumer products at California's large marine ports in Los Angeles, Long Beach and Oakland. ED ensures that diesel-powered school buses and delivery vehicles do not idle too long or too close to children's developing lungs. ED requires the lowest-polluting fuels be used in cars and trucks, and that the highest level of particle controls are installed on diesel vehicles in construction, port trucks, public utility, transportation refrigeration units and trash-hauling fleets as well as in urban/transit bus fleets.

The challenge to reduce greenhouse gas emissions from both mobile and stationary sources has been added to the ED's responsibilities by California's landmark climate change legislation (AB 1493 of 2004 and AB 32, California's Global Warming Solutions Act, of 2006). Enforcing the requirements of these programs will have beneficial impacts



worldwide. ED employs a number of strategies to meet the challenges set forth by AB 32. ED prioritizes, cross-trains, and looks for opportunities to partner with local, state, and federal law enforcement. When the workload demands, ED augments its staff and updates its equipment. ED actively pursues the leads and complaints received from citizens and members of the regulated community. ED works with the regulation writers to make sure that the programs they design can be effectively enforced, and with laboratory staff to develop processes that will efficiently identify instances of non-compliance.

ED is focused on helping California's regulated communities understand regulatory requirements and works closely with them to ensure they understand what the laws require and how they can achieve compliance. ED staff conducts numerous workshops and training programs, produces many publications and works with the regulated community in order to make sure that stakeholders are aware of the requirements that may affect them. When ED discovers violations, it works closely with ARB attorneys and local and state prosecutors to prepare strong and effective cases. And, through ARB's Public Information Office, ED makes sure that, when an enforcement case has been resolved and the violator has been brought to justice, the word gets out to discourage others from breaking the law. Upon case resolution, monies collected from penalties go into the Air Pollution Control Fund (APCF) as required under state law. Up to 25 percent of the penalty monies can go to Supplemental Environmental Projects (SEPs). For example, one common SEP in 2009 was the California Pollution Control Financing Authority (CPCFA). The CPCFA used these SEP monies to fund low interest guaranteed loans for off road vehicle fleets. The CPCFA's mission is to encourage banks and other financial institutions to make loans to small businesses that fall just outside of most banks' conventional underwriting standards. These loans are for purchasing equipment to comply with ARB's off road diesel regulatory program. Another common SEP recipient in 2009 was the California Council on Diesel Education and Technology (CCDET) where monies are distributed to California Community College Diesel Technology Programs to educate the diesel industry on ARB's regulations using hands on training in a classroom and shop environment

The ARB is committed to making the achievement of environmental justice an integral part of its activities. State law defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

The Board's "Environmental Justice Policies and Actions" have established a framework for incorporating environmental justice into ARB's programs consistent with the directives of state law. These policies apply to all communities in California, but recognize that environmental justice issues have been raised more in the context of low-income and minority communities. These policies are intended to promote the fair treatment of all Californians and cover the full spectrum of ARB activities. Underlying these policies is a recognition that we need to engage community members in a meaningful way as we carry out our activities. People should have the best information possible about the air they breathe and what is being done to reduce unhealthy air pollution in their communities. Finally, we recognize our obligation to work closely with all stakeholders, communities, environmental and public health organizations, industry, business owners, other agencies, and all other interested parties to successfully implement these policies.

Over the last year, ED has increased its coordinated effort with federal, state and local enforcement agencies such as U.S. EPA, the Department of Toxic Substances Control, the California Water Board, local air districts, local law enforcement, city leaders and local community groups throughout the state, especially in areas that have been identified as environmental justice areas. Staff has worked in environmental collaborative groups in the cities of Maywood, Oakland, Pacoima, Riverside, San Bernardino, and Wilmington. In 2009, community identified and reported environmental violations were resolved and ongoing projects continue to improve the quality of life for the people living in those communities. This very important effort will continue and expand to include other communities during the next year.

Finally, even in the face of the last year's fiscal challenges and the Governor's mandated furlough program, the enforcement program experienced moderate growth in an effort to keep pace with its operational demands. This nominal growth in staff resulted in a sizeable increase in the number of enforcement actions closed and penalties assessed and collected in 2009.

The following statistics highlight the achievements of ARB's Enforcement Program in 2009. Please refer to the appendices section of this report for details on these statistics:

- 4,054 cases/citations closed (3,928 for mobile source programs and 126 for stationary source programs);
- Over \$16.3 million in penalties collected;
- 4,041 of these cases/citations were closed administratively for over \$14.7 million;
- 13 of these cases were closed via civil litigation for over \$1.6 million; and
- Funded 272 Supplemental Environmental Programs (SEP) totaling over \$1.9 million from penalties collected from these enforcement actions.

The statistics for the Mobile Source Enforcement Program are as follows:

- 3,928 cases/citations closed for over \$13.3 million;
- 218 general mobile source cases/citations closed for over \$6.2 million;
- 245 diesel fleet and exhaust retrofit cases closed for over \$5.9 million;
- 3,465 in use diesel program citations closed for over \$1.2 million;
- Over 19,000 heavy-duty vehicles inspected for smoke emissions and tampering, with over 600 violations closed for over \$270,000;
- Over 9,500 inspections for commercial vehicle and school bus idling conducted, with over 996 violations settled for over \$298,000;
- 582 field inspections of solid waste collection vehicles, with over 86 citations settled and \$28,500 collected and 11 cases closed for over \$983,000;

## 2009 ARB Report of Enforcement Activities

- Over 19,000 heavy-duty vehicles inspected for engine certification labeling requirements, with over 1,100 violations and over \$340,000 collected;
- 55 inspections of public agency and utility company fleet vehicles, with 11 violations cleared for over \$2,400 collected and 2 cases closed for over \$5,900;
- 1,347 truck based Transport Refrigeration Units inspected with 453 citations issued and 104 cleared for over \$55,000 and 32 cases closed for over \$69,000;
- 25 Transit Fleet Vehicles cases closed for over \$291,000 and 3 Urban Bus cases closed for over \$7,500;
- 13 exhaust retrofit (VDECS) cases closed for over \$2.2 million;
- Over 100 inspections of in-use off road diesel vehicles with 10 citations issued and 5 cleared for \$1,500 and 3 cases closed for over \$6,700;
- 359 delinquent violations (multiple programs) closed for over \$218,000 collected;
- 186 uncertified on and off-road vehicle cases closed for over \$1.2 million;
- 11 illegal aftermarket performance parts case closed for over \$302,000;
- One On-Board Diagnostic case closed for \$4.4 million;
- 93 cases of non-California certified vehicles sold in California illegally were closed for \$206,198;
- Over 18,200 inspections for off-road use only, non-taxed, red-dyed diesel fuel conducted for on-road vehicles;
- 11,620 vehicle inspections conducted in Environmental Justice areas and over 1,430 violations documented;
- Over 50 industry compliance assistance/outreach days reaching over 3,000 attendees; and
- 65 California Community College CCDET compliance training classes held reaching over 1,000 students.

The statistics for the Stationary Source Enforcement Program are as follows:

- 126 cases/citations closed for over \$3 million;
- 37 fuels cases closed for various violations for over \$1.2 million;
- Over 1,500 cargo tanks inspected for proper certification and leak detection with 26 cases closed for \$12,750;
- 13 samples of portable fuel containers and spouts were collected during inspections, with 9 cases closed for \$63,750;

- Over 15 million gallons of gasoline and over 4 million gallons of diesel fuel represented in sampling;
- Over 1,500 consumer product samples gathered during inspections, with 45 cases closed for over \$1.68 million;
- 6,425 inspections conducted at ports, rail yards, and marinas, including 3,240 inspections of locomotives resulting in 52 violations issued and 8 violations closed for \$3,200; 603 Cargo Handling Equipment inspections with \$35,625 collected in penalties; 2,312 rail and ship based Transport Refrigeration Unit inspections; 113 Commercial Harbor Craft inspections; 134 Ocean Going Vessel inspections with 7 violations issued and 27 marina fuel dock inspections;
- 69 Composite Wood Product inspections; and
- 1,157 Asbestos notifications received; 80 inspections conducted; 6 complaints investigated and 697 inquiries handled;

The statistics for the Training and Compliance Assistance Programs are as follows:

- Over 275 classes or multi-day training programs offered, representing over 9,150 student days of training; and
- Over 9,000 publications distributed, plus 215,000 page views on publications.

As the Board continues its aggressive rulemaking agenda, we expect that the future will bring continuing growth due to new regulations that will affect diesel emissions, goods movement equipment, climate change and more. The challenge to ED is enormous, but the staff is willing and eager to face the numerous tasks ahead.

## **INTRODUCTION**

ARB coordinates California's efforts to reach and maintain the health-based federal and state air quality standards, and to protect the public from exposure to TAC's. Since its inception, ARB has been charged with overseeing the efforts of the local air pollution control and air quality management (air) districts in controlling air pollution caused by stationary sources.

ARB has also been specifically directed to address the serious problems caused by mobile sources – cars, motorcycles, trucks and buses, off-road vehicles and equipment, and the fuels that power them – major sources of air pollution in the most populous parts of the state.

ARB is also responsible statewide for controlling emissions from smaller but more numerous sources of air pollution, including consumer products, other types of mobile

sources like lawn and garden equipment and utility engines, and, especially, any sources of toxic air pollutants.

To carry out these responsibilities, ARB has undertaken a multifaceted program of planning, regulation development, and enforcement. This is a complex process that weaves together air quality research, modeling and assessment; and 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 guarantees a level playing field for all participants. This report focuses on ARB's enforcement efforts, both direct enforcement and oversight of air district enforcement programs, and voluntary compliance through education and compliance assistance materials.

Violations of California's air quality laws and regulations span a wide spectrum that extends from nominal breaches of the state's statutes or regulations to deliberate, criminal actions. 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 affected industries that do comply. To address these varying degrees of noncompliance and their effects on the state's health and economic welfare, ED of ARB has adopted as its mission statement:

*"The Enforcement Division seeks to protect public health and provide safe, clean air to all Californians by reducing emissions of air contaminants through the fair, consistent and comprehensive enforcement of statutory and regulatory requirements, and by providing training and compliance assistance."*

The report that follows includes a discussion of the enforcement programs currently administered by 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 ARB's practice to keep confidential the names of entities involved in pending enforcement actions, and that this convention will be observed in any pending case summary information. Specific case settlement summaries can be viewed at ARB's Enforcement Program web site located at: <http://www.arb.ca.gov/enf/casesett/casesett.htm>.

For more information on the ARB, ED or its programs, please contact James R. Ryden, Chief, at (916) 322-7061 or [jryden@arb.ca.gov](mailto:jryden@arb.ca.gov). For questions or comments relating to this report, please contact the Chief Editor, Michelle Shultz Wood, at (626) 459-4338, or email at [mshultz@arb.ca.gov](mailto:mshultz@arb.ca.gov).

Questions relating to specific program areas may be directed to the appropriate section manager or branch chief listed on the Contacts List in Appendix G. Please refer to ED's web page as well, located at: <http://www.arb.ca.gov/enf/enf.htm>.

## **GENERAL ENFORCEMENT PROGRAMS**

The ED, through its three branches and an unaligned section, is responsible for a variety of enforcement activities:

- The **Mobile Source Enforcement Branch** (MSEB) enforces programs to reduce gaseous, particulate, and visible exhaust emissions from heavy-duty diesel and gasoline-powered commercial trucks and buses, passenger vehicles and other light-duty on-road vehicles, off-highway vehicles, off-road engines like lawn and garden equipment, and aftermarket parts for on- and off-road vehicles.
- The **Stationary Source Enforcement Branch** (SSEB) investigates and develops cases related to motor vehicle fuels and consumer products, provides oversight 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 **Greenhouse Gas Enforcement Section** (GHGES) remains organizationally independent of a branch and provides an enforcement perspective and specific language to ARB divisions involved in rule development in furtherance of the AB 32 climate change effort.
- The **Training and Compliance Assistance Branch** (TCAB) provides training and informative materials to ARB staff, air districts, and regulated industry personnel for improving enforcement and promoting compliance.

Integral to the success of the enforcement program is ED'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 violators, 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 enforcement staff to negotiate settlements, or to prepare cases for referral for civil litigation or criminal prosecution to the California State Attorney General's Office (AG), local District Attorneys (DA), or the United States Attorney's Office.

### **Strategic Plan**

In 2005, ED began to develop and is currently implementing its Strategic Plan, which guides resource allocations and programs in order to enhance our efficiency. The Division has over the last year continued to implement a phased-in reorganization to effectively incorporate the remaining parts of the Plan. The Heavy Duty Diesel sections have been reorganized and made into three distinct sections; Heavy Duty Diesel Enforcement Section - On-Road Programs, Heavy-Duty Diesel Enforcement Section - Off-Road and Goods Movement Programs, and the Heavy Duty Diesel Enforcement Section - Field Operations and Citation Administration. This reorganization has streamlined the enforcement of the numerous Heavy Duty Diesel programs and new regulatory requirements.



## **Regulation and Legislation Coordination**

ED staff continues to be involved with rule development and proposed legislation. Coordination between the rule writers, the legislative staff, and the enforcement staff is critical in ensuring that new regulations and statutes are enforceable at both the state and local level.

## **Legislation**

### **Senate Bill 124, Oropeza (Chapter 561 Statutes of 2009)**

In December 2002, ARB adopted a regulation to limit diesel vehicle idling at schools to reduce children's and the general public's exposure to diesel PM and other pollutants. The program targets school buses, school pupil activity buses, youth buses, general paratransit vehicles, transit buses, and heavy-duty commercial motor vehicles that operate at or near schools.

Senate Bill 124 acknowledges and codifies ARB's regulation, and raises the minimum penalty for a violation of this rule from \$100 to \$300.

The bill became effective on January 1, 2010; and the school bus idling regulation was updated early in 2010 to reflect the higher minimum penalty.

## **MOBILE SOURCE ENFORCEMENT PROGRAMS**

### **Program Overview**

California has long been the world leader in combating air pollution emitted from motor vehicles and other mobile sources. Because of the state's severe air quality problems in some areas, California is the only state authorized under the Federal Clean Air Act to set its own mobile source emissions and fuels standards. 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 on and off-road vehicles and engines meet California's standards from the design phase through production, from the point of sale through the vehicle's or engine's useful life, and finally to its retirement from the fleet.

ARB has direct enforcement authority over all regulated mobile sources in California; including light duty and heavy duty gasoline powered vehicles on and off-road, heavy duty diesel powered vehicles on and off-road, off-road recreational vehicles, off-road diesel and gasoline powered equipment and small off-road engines. It is illegal to sell or offer to sell into California new mobile sources unless they have been certified by ARB as meeting California emissions standards. Manufacturers apply for ARB certification annually.

## **MOBILE SOURCE ENFORCEMENT**

The Mobile Source Enforcement Section (MSES) is responsible for ensuring that all regulated mobile sources, both on-road and off-road, comply with ARB certification requirements. ARB's enforcement program vigorously enforces these laws through inspections and investigations that can result in corrective actions and substantial civil and/or criminal 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) not certified to California's standards cannot be sold within or imported into the state by a California resident or business. 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 ARB.

When a CNC is issued to a dealer or fleet, an ARB field inspector will make a follow-up visit to the aforementioned violator and issue an NOV. The NOV requires that the vehicle(s) be removed from the state, and payment of a civil penalty of up to \$5,000 per vehicle, as authorized under HSC §43151 et seq.

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

Enforcement statistics for this program are found in Appendix C. Further details regarding the mobile source enforcement programs are discussed later in this report, or visit the ED's web page at <http://www.arb.ca.gov/enf/enf.htm>.

### **Highlights**

#### **Aftermarket Parts Outreach**

Staff continues 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 EO that allows for their legal sale in California. Staff provided outreach at the 2009 SEMA show by explaining ARB enforcement programs to represented aftermarket company attendees, making available ARB fact sheets and answering questions.

The industry has new challenges and opportunities with new climate change rules coming into effect. One of the key areas of interest of the 2009 SEMA show was all of the aftermarket parts developed for diesel powered cars and trucks. Some of these devices alter the computer mapping to increase fueling and add power at the cost of increased emissions. Many of the devices do not have ARB Executive Orders for legal use in California, and vehicle owners will have problems when the diesel Smog Check provisions begin in 2010.

In addition to on-road aftermarket part regulatory requirements, off-road mobile source aftermarket parts have had their own regulatory requirements for over five years. Unfortunately, the compliance rate is extremely low. In an effort to both reduce illegal aftermarket parts and ensure new vehicle certification, MSES plans to develop an Off-Highway Vehicle Anti-Tampering Course. This course will be developed and certified with Peace Officer Standards and Training, with sworn park rangers and officers as the target audience. These officers already conduct enforcement of off-highway vehicles in the field, and this additional training will assist them in identifying and citing illegal vehicles and aftermarket parts.

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

SOREs (lawn mowers, trimmers, generators, scooters) and OHRVs (off-road motorcycles and ATVs) continued to receive enforcement attention during 2009. Staff continued to work cooperatively with industry to provide education that assists in industry's awareness and compliance with ARB laws and regulations.

Aggressive enforcement of these regulations is critical because SORE and OHRV regulating programs are designed to reduce smog-forming emissions by approximately 200 tons per day. Enforcement staff will continue to work with CADMV and the California Department of Parks and Recreation (CDPR) 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 2009, staff continued enforcement of ARB's motorcycle regulations. Due to the focus on custom motorcycle builders' enforcement in 2006 and 2007, this category was found to be generally in compliance in 2009, and the engine builders now have additional flexibility to certify an engine package for custom motorcycle builders. For 2009, enforcement continued to focus on imported motorcycles coming into California without having been certified by ARB.

*Aftermarket Catalyst Cases*

On January 1, 2009, new regulations became effective that require all aftermarket catalysts sold in California to meet more stringent performance and durability standards. All aftermarket catalysts now sold in California must have an EO issued pursuant to these new regulations. The older style catalysts are no longer legal for sale or installation in California. Since the cost of the newer, more effective catalysts is higher, shops that continue to use the older illegal catalysts are creating an unfair business climate for the shops installing legal parts. To help mitigate this situation, MSES enforcement staff continued enforcement focused on the catalyst manufacturers, distributors, and large retailers. These efforts produced a large enforcement case against Auto Zone and resulted in \$90,000 in penalties. MSES staff also provided support to ARB's Mobile Source Operations Division in an outreach effort to the industry at several workshops throughout California.

Illegal Import Market

During 2009, staff continued its efforts to reduce the incidence of illegally imported products (e.g. on- and off-road motorcycles and ATVs, personal watercraft, and lawn and garden equipment, etc.) coming into California through the major shipping ports. Staff is working with U.S. EPA, U.S. Immigration and Customs Enforcement, U.S. Coast Guard, and international governmental agencies especially China, to ensure that imported products coming into California fully comply with California environmental regulations. In 2009, MSEB staff continued to pursue administrative, civil, and criminal action against violators.

In 2009 MSEB participated in increased discussion and outreach with international government and environmental groups, as well as academia. This international outreach is one reason there has been a decrease in illegal imports. The participants take back firsthand knowledge of California regulatory requirements to the manufacturers to help ensure their commitment to certify their products prior to California importation. This outreach effort has shown quantifiable benefits, demonstrated by the decrease in illegally imported Off-Highway Recreational Vehicles (OHRVs) and the increased number of legally certified products coming into California and the U.S.

The ARB's new motorcycle and engine test cell began work in 2009 to require confirmatory and in-use testing on selected import and domestic products. This is an extremely important step to ensure that production vehicles and engines continue to meet the certification and durability requirements.

CADMV, CHP, and CDPR Interagency Coordination Meetings

Staff continued to attend CADMV, CHP, and CDPR coordination meetings. These meetings provide forums for staff to discuss common issues, and they foster better inter-agency communication and cooperation.

Marine Engine and Watercraft Enforcement

During 2009, MSES continued an intensive enforcement effort to ensure ARB's certification and hang tag requirements for recreational watercraft and personal watercraft (i.e. Seadoos) were being implemented. Staff focused enforcement resources at the major boat shows throughout California to cover boat and engine builders, distributors, and retailers all in one location. Unlike some trade shows, boats and engines are offered for sale during the marine shows which allows ARB right of entry for inspection and enforcement. ARB staff coordinated these enforcement efforts with the cooperation and support of the California Marine Associations.

AB 695 requires a retail seller or the registration applicant of an inboard or stern-drive vessel with a model year 2008- and- later marine engine to certify that the engine meets or exceeds ARB's emissions standards by: (1) examining the permanently affixed label on the engine and confirming compliance with emissions standards, (2) writing the engine family name and serial number on the hang tag attached to the vessel, and (3) submitting the hang tag with the application for registration. CADMV cannot register a vessel unless these conditions are met. For 2009, this bill now applies to the sale of boat with engines exceeding 500 horsepower.

Non-compliance with this bill is an infraction, punishable by a fine of \$250, for the operation of an unregistered vessel that does not comply with ARB's emission standards. Please refer to the ARB website: [www.arb.ca.gov/msprog/offroad/recmarine/recmarine.htm](http://www.arb.ca.gov/msprog/offroad/recmarine/recmarine.htm) for more detailed information and history on this subject.

New residents to California who purchased a vessel in their previous state of residence are exempt from meeting these provisions. AB 695 does not include personal water craft or outboard engines and is not enforceable by ARB. Although the bill itself does nothing to prevent California residents from purchasing uncertified personal watercraft or outboard engines outside of California and attempting to register the vehicle in California, ARB regulations do require marine engines and personal watercraft used or registered in California to be California-certified.

### **HEAVY-DUTY DIESEL VEHICLE ENFORCEMENT**

In 1998, ARB determined that diesel exhaust is a toxic air contaminant. As a result, ARB developed the Air Toxic Control Measures (ATCMs), a series of programs intended to reduce diesel emissions of particulates and oxides of nitrogen. These programs require commercial heavy-duty diesel vehicle exhaust systems to be retrofitted with diesel particulate filters, and alter driver habits that create unnecessary diesel emissions.

Certain segments of all diesel fleets are now required to be equipped with these retrofits, including transit buses, solid waste collection vehicles, public agency and utility vehicles, cargo handling equipment, drayage trucks, as well as transport refrigeration units (trailers equipped with diesel-powered cooling systems). In the future, retrofits will be required on on-road diesel-powered vehicles which are covered under the Truck and Bus Regulation (On Road Heavy Duty Vehicles greater than 14,000 GVWR); Yard Trucks with off-road certified engines and diesel fueled shuttle vehicles. Diesel powered off-road vehicles will be required to lower their particulate matter emissions once the U.S. EPA grants ARB the waiver to enforce the in-use emission standards set by ARB's regulation.

ARB, in cooperation with the California Highway Patrol (CHP), inspects 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 diesel vehicles comprise only two percent of California's on-road fleet, they produce about one-third of the nitrogen oxides (NOx) and approximately two-thirds of the particulate matter (PM) emissions attributed to motor vehicles. The exhaust emissions from these vehicles are of special concern, particularly in populated areas, because of the toxic nature of the sooty particles found in diesel exhaust.

To tackle the problem of excessively smoking and tampered heavy-duty diesel vehicles, 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.

HDVIP is administered by field inspection staff that performs smoke opacity tests on heavy-duty diesel-powered vehicles. Vehicles found to have smoke emissions exceeding applicable opacity standards are cited. The citations must be cleared by repairing the engine, performing an additional opacity test for confirmation of lowered smoke levels, submitting repair receipts, and paying an assessed penalty. The enforcement testing is performed at CHP weigh stations and platform scales, random roadside locations, and at fleet facilities.

PSIP requires that California fleet owners of two or more heavy-duty diesel vehicles (6,000 GVWR and greater) perform an annual smoke inspection on each of their vehicles. Fleet owners are required to maintain their records for two years. ARB staff will select fleets for audits and review their logs of smoke opacity test results to ensure that the requirements are being fulfilled.

ARB also inspects heavy-duty gasoline-powered vehicles for emission control systems tampering. Tampered gasoline engines contribute an inordinate amount of hydrocarbons, oxides of nitrogen, and carbon monoxide to total vehicle emissions. Owners of tampered gasoline and diesel vehicles are cited. The citation must be cleared by repairing the engine, having the engine inspected by an authorized Smog Check Station or ARB inspector, submitting repair receipts, and paying an assessed penalty. Vehicles with citations that are not cleared in a timely manner may be subject to impound by CHP.

California Vehicle Code Section 4755 authorizes CADMV to refuse the registration, renewal or transfer of registration, at ARB request, for vehicles with violations not cleared in a timely manner. The bill was signed by the Governor and became effective January 1, 2008.

Engine idling of school buses, commercial vehicles and off-road vehicles is now prohibited for longer than five minutes. This is intended to reduce public exposure, especially that of children, to harmful diesel particulates.

ARB has been authorized to adopt rules to address global warming by reducing the gaseous emissions (methane, carbon dioxide, etc.) that trap heat in the earth's atmosphere, as outlined in the Board's December 2008 Scoping Plan. Two initial efforts include designing new trucks and trailers, and retrofitting in-use trucks and trailers, with equipment that enhances aerodynamics to reduce air drag and increase fuel economy. These strategies are commonly referred to as "Smart Way Technologies". Other measures include controls on vehicle tire designs (to reduce rolling resistance) and air pressure, engine efficiency and economy, and the introduction of low-carbon fuels. Some of these rules became effective January 1, 2010.

## **Highlights**

### **Assembly Bill 233**

Enacted in 2007, AB 233 (Jones), known as the Healthy Heart and Lung Act, required ARB to review its existing enforcement of diesel emission control regulations and anticipated enforcement needs to implement ARB's DRRP and Emission Reduction Plan for Ports and Goods Movement.



The bill immediately increased the minimum penalty for commercial vehicle idling from \$100 to \$300. It allows CADMV to place a registration hold on any heavy-duty diesel truck that has outstanding ARB citations until those citations are cleared, and it requires placement of “No Idling” signs where numerous trucks have been found idling.

Based on authority granted by AB 233 and in order to increase enforcement capabilities, ARB has contracted with the San Joaquin Valley APCD and trained local law enforcement officials and Bay Area AQMD and the South Coast AQMD to allow District inspectors to assist ARB by performing idling enforcement functions. This arrangement is a forerunner for future projects involving additional air districts throughout California. For more information regarding AB 233, see <http://www.arb.ca.gov/enf/hhla/hhla.htm>.

#### Compliance Outreach and Education

The ARB’s Enforcement Division routinely issues citations for violations ranging from minor violations, such as smoking heavy-duty vehicles to major, such as illegal engines. When a case against a violator is settled by the ARB, the terms of the settlement extend beyond simply punishing the violators by forcing them to pay fines. In all cases, ARB makes an effort to assist the violators in achieving compliance by educating them. Enforcement staff encourages the violators to work directly with ARB program staff in order to achieve a greater understanding of the regulatory programs.

In March of 2009, ARB staff from both the Enforcement and the Mobile Source Control Divisions began an outreach tour to many dealers, owners, and drivers of regulated heavy duty diesel vehicles and fleets. The attendees included those from Caterpillar, California Trucking Association and the California Armored Car Association to name a few. Led by Paul Jacobs, Chief of Enforcement Division’s Mobile Source Enforcement Branch, 13 compliance training sessions were conducted throughout the state as a result of case settlements with two California-based Caterpillar dealers. In these settlements, Caterpillar’s California governmental affairs liaison asked ARB staff to provide compliance assistance training for Caterpillar dealership personnel and customers at all Caterpillar dealers within the state in an effort to avoid future non-compliance.

The outreach presentations were given to audiences ranging in size from fifty people to several hundred. Topics covered included California’s Diesel Risk Reduction Enforcement Programs with an emphasis on the In-Use Off-Road Diesel Vehicle Regulations.

#### Focused Environmental Inspections in Environmental Justice Communities/Ports

ARB participates in an ongoing program of multi-agency vehicle inspections in mixed residential locations known as Environmental Justice (EJ) areas. These EJ areas receive an adverse amount of emissions of oxides of nitrogen and particulate matter from diesel-powered trucks and buses. They include but are not limited to: the residential housing areas located near the seaports of Los Angeles, Long Beach, Port Hueneme, Oakland, and Stockton; the California/Mexico border, ports of entry at Otay Mesa, Calexico, and Tecate; the railroad yards; the truck stops; and the travel routes with greater-than-normal traffic flow that are utilized by heavy-duty diesel-powered vehicles.

During these multi-agency operations, ARB staff coordinates with enforcement personnel from CHP, U.S. EPA, the U.S. Coast Guard, the U.S. Immigration and Customs Enforcement, the California Department of Toxic Substances Control, local law enforcement and hazardous materials agencies, the California Board of Equalization, the Internal Revenue Service, and others to examine the vehicles passing through these areas. These concentrated efforts are designed to detect violations of air quality regulations, expired and invalid drivers licenses, inaccurate log books, illegal transport of hazardous wastes, illegal use of tax-exempt red-dyed diesel fuel, vehicle safety concerns, and other related violations found by the other agencies (including arrests for criminal violations). See Appendix C, Table C-7.

### California-Mexico Border Programs

While Canada and the U.S. have been implementing the commercial vehicle transportation provisions of the North American Free Trade Agreement (NAFTA) for many years, implementation of the transportation provisions of NAFTA along the U.S./Mexico border is still pending. The U.S. and Mexico are still negotiating vehicle and driver safety and homeland security issues and, to date, no timeline for opening the border to free travel has been specified.

The U.S. and Mexico had begun a pilot program to allow a limited number of qualified trucking companies from each country free travel in the U.S. and Mexico, however the U.S. Congress stopped funding for the program and Mexico responded by placing high tariffs on U.S. goods coming into Mexico. Presidents Obama and Calderon met in April 2009 to discuss NAFTA, and negotiations are underway to restart the pilot program.

Currently, there are designated commercial zones around the ports of entry at Otay Mesa, Calexico, and Tecate in which Mexican-domiciled trucks may transport and deliver freight to transfer stations in California. American carriers will load product at these stations and deliver it to final destinations. To mitigate excessive particulate matter and oxides of nitrogen emissions from Mexican-domiciled vehicles, ARB maintains HDVIP inspection sites at the Otay Mesa, Calexico, and Tecate border crossings. ARB also conducts random roadside inspections near and around these border crossings to assure compliance from the trucking companies. Mexican commercial vehicles are inspected for engine certification, emissions and tampering when they travel through these inspection sites.

### ARB Border Region Activities

In 2009, ARB:

- Conducted commercial vehicle inspections in conjunction with CHP to detect excess emissions, tampering, and as required by AB 1009 of 2004 (Pavley), to ensure that commercial vehicles operating in California have U.S. EPA-certified engines. During 2009, 1,468 commercial vehicles were inspected in this region, with 47 violations found, and a failure rate of 3%. This is an improvement over the failure rate of 10% during 2008.

- Worked with Cal/EPA's Border Affairs Office to continue talks with the Mexican EPA to expedite adoption of a 15 parts-per-million sulfur diesel fuel standard nationwide in Mexico. This is currently planned for 2010, and will bring Mexico's fuel and engine standards in alignment with those in the U.S. and Canada.
- Participated in Mexicali-Imperial County Taskforce meetings and presented information on ARB programs.
- Continued holding workshops to educate Mexican and American trucking company owners and operators throughout the border region about ARB's commercial vehicle emissions programs. Several workshops were held in conjunction with CHP in which vehicle safety programs were also discussed.

#### California Council on Diesel Education and Technology

Fleets, firms, and individuals that perform smoke opacity testing related to ARB's HDVIP and PSIP need a clear understanding of the programs' regulations and must be able to correctly administer the Society of Automotive Engineers (SAE) J1667 opacity test. To this end, in 1992 ARB created the California Council on Diesel Education and Technology (CCDET). It is a partnership among ARB, the diesel trucking industry, and five California community colleges. The College of Alameda, San Joaquin Delta College, Santa Ana College, Los Angeles Trade Tech. College, and Palomar College offer a low-cost, one-day class in the proper application of SAE J1667. The CCDET colleges held 65 classes in 2009.

ARB policy requires that certification through CCDET be renewed every four years (see ARB Advisory 340 at [www.arb.ca.gov/enf/advs/advs340.pdf](http://www.arb.ca.gov/enf/advs/advs340.pdf).) The CCDET program is currently adding modules to cover other ARB diesel regulatory programs, such as retrofits to idling controls on diesel engine emission control systems.

During 2009, 50% of the SEP monies directed to the CCDET program were redirected to the California Pollution Control Financing Authority (CPCFA) for low interest guaranteed loans for off road vehicle fleets. The CPCFA's mission is to encourage banks and other financial institutions to make loans to small businesses that fall just outside of most banks' conventional underwriting standards. These loans are for purchasing equipment to comply with ARB's off road diesel regulatory program.

#### 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 problematic. A number of air districts, along with ARB, have implemented programs for contacting the owners of smoking vehicles. Under these programs, citizens report excessively smoking vehicles and the owners are sent notices asking that they check (and repair as needed) their vehicles.

ARB's program generated a 10% compliance response rate in 2009. See Appendix C, Table C-3.

*School Bus Idling Air Toxic Control Measure*

Adopted in December 2002, this ATCM requires the driver of a school bus, transit bus, or other commercial heavy-duty vehicle to minimize idling while at or 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. SB 124 was passed in 2009 and increased the penalty for school bus idling from \$100 to \$300. This brought the penalty for school bus idling in line with penalties for commercial vehicle and off-road idling.

A program is also in place for the public to anonymously report school buses or other heavy-duty diesel vehicles that are believed to be idling and not complying with this ATCM. Upon receipt of a complaint, the driver or vehicle owner is issued an advisory notice and is asked to reply with information outlining compliance efforts.

These complaints are reported through the ARB web site and on established toll-free hotlines. For more information regarding how to file a complaint, see <http://www.arb.ca.gov/enf/complaints/complaints.htm>.

During 2009, three school bus idling citations were issued and \$300 was collected. See Appendix C, Table C-4.

*Commercial Vehicle Idling Program*

In general, commercial vehicles are restricted from idling for more than five minutes in any given area except for idling that is necessary for passenger comfort, safety, and performing work for which the vehicle was designed, and initially included trucks with sleeper berths. The exemption for idling while using a sleeper berth was removed at the beginning of 2008, and now all sleeper berth or other heavy-duty vehicles that do not meet a 30 gram per hour NOx emission standard, regardless of model year, are subject to the five-minute limit. ARB inspectors conducted 8,347 sleeper berth inspections in 2009 and wrote 1,337 citations to those in violation. In an effort to educate the industry, inspectors also handed out fliers on all diesel programs when in the field.

ARB inspectors are routinely sent to various locations around California to conduct idling enforcement on commercial vehicles. These locations include produce markets, parking lots where tour buses pick up passengers, industrial warehouse lots, entertainment zones, high school events, truck stops, and residential neighborhoods. Drivers of vehicles with a gross vehicle weight rating of 10,000 pounds and above may be issued a citation if found in violation of the idling regulations.

Drivers may use a number of alternatives to idling a vehicle's main engine, such as on-board auxiliary power systems, battery systems, truck stop electrification, or thermal energy systems. For more alternatives and detailed information, please go to <http://www.arb.ca.gov/msprog/cabcomfort/cabcomfort.htm>.

Outreach and enforcement efforts for drivers of sleeper berth vehicles continued through 2009. The contract between ARB and SJVAPCD that allocated District inspectors to perform idling enforcement functions within the District's boundaries increased enforcement efforts.

ARB staff maintains a web site for the public to report incidents of unnecessary commercial vehicle idling at <http://www.arb.ca.gov/enf/complaints/complaints.htm>. The vehicle owner is issued an advisory notice and is asked to respond with information outlining compliance efforts.

In 2009, 996 citations were closed and \$298,700 in penalties was collected. Seventy complaints were received, 70 Advisory letters were sent, and 29 responses were received, for a response rate of 41%. For the remainder of the 2009 enforcement statistics of this program, see Appendix C, Table C-5.

#### Periodic Smoke Inspection Program

When ARB performs fleet audits under PSIP, fleet vehicle records are inspected to assure that valid testing of the vehicles has been annually performed. In addition, ARB has begun conducting comprehensive multi-program audits, which include inspecting the facilities and the compliance reports submitted to ARB regarding diesel exhaust retrofits, plus inspecting each vehicle for the installation of diesel particulate filters, engine certification labels, and filter device, engine, and cab labeling.

When violations are found, the documentation is compiled into a case against the fleet. The developed case includes the violations, assessed penalties based upon HSC and California Code of Regulations (CCR) regulations, and a list of additional requirements, such as attending CCDET classes, re-flashing engine computers, and injunction of future violations, etc. These cases are initially presented to the fleet for settlement with ARB. Staff forwards the cases that remain unsettled to the AG or to local DAs for prosecution.

In 2009, ARB reached 96 settlements totaling over \$2.4 million with companies for violating regulations governing these programs. See Appendix C, Table C-15.

#### Fleet Rule for Transit Agencies

In February 2000, the Air Resources Board adopted the Fleet Rule for Transit Agencies and more stringent exhaust emission standards for new Urban Bus (UB) engines and vehicles. The Fleet Rule for Transit Agencies is ARB's effort to reduce both criteria pollutant emissions and exposure to TAC from urban buses (UBs) and transit fleet vehicles (TFVs) operated by and for public transit agencies. The regulation affects both public transit operators and heavy-duty engine manufacturers.

New UBs operated in California are required to have engines that meet the more stringent California UB engine exhaust emission standard through the 2006 model year, after which, starting with the 2007 model year, the standard aligns with the California heavy-duty engine exhaust emission standard. A transit agency must report every January 31st, starting in 2003 through 2016, the UBs owned, operated, or under contract to the transit agency as of January 1 of that year.

Transit fleet operators that own TFFVs are required to reduce public exposure to diesel particulate matter (PM) and nitrogen oxide (NOx) emissions. TFFVs are any on-road vehicles operated by a public transit agency, less than 35' in length and 33,000 gross vehicle weight rate (GVWR), but greater than 8,500 GVWR, powered by heavy duty engines fueled by diesel or alternative fuel; including service vehicles, tow trucks, dial-a-ride buses, paratransit buses, charter buses, and "commuter service" buses operated only during peak commute hours with 10 or fewer stops per day. Gasoline-powered TFFVs are exempt.

During 2009, total penalties for the Transit Fleet Rule were divided between UBs and TFFVs. There was \$7,500 in penalties collected to settle UB violations and \$291,149 in penalties collected from twenty TFFV cases settled. See Appendix C, Table C-15.

### *Fleet Rule for Public Agencies and Utilities*

The Fleet Rule for Public Agencies and Utilities is ARB's effort to reduce both criteria pollutant emissions and exposure to TAC from diesel powered vehicles other than those covered by the urban buses and transit fleet vehicles that are operated by and for public transit agencies. The regulation affects both municipalities or utilities and heavy-duty engine manufacturers.

Public Agency and Utility engines are required to meet a fleet average starting in January 2008 and the last fleet compliance is to be accomplished by December 31, 2018. This includes certification requirements for the fleets and includes meeting fleet fuel strategy requirements. Operators of all public agency and utility vehicles are required to meet fleet-wide PM reductions and lower NOx fleet averages. This can be achieved through the use of verified diesel emission control strategies, i.e. by installing certified particulate filters, by replacing older engines with ones that meet the 2008 engine exhaust emission standards, or by using alternative fuels. Annual reporting is also required from all public agencies and utilities by December 31st of each year. During 2009, one Public Agency and Utility case was settled for a total of \$5,906. See Appendix C, Table C-15.

### *Transport Refrigeration Unit Regulation*

The Transport Refrigeration Unit (TRU) rule was adopted in February 2004 and went into effect in December 2004. This regulation uses a phase-in approach to reduce the PM emissions from in-use diesel-powered TRU and TRU generator equipment, used to power the refrigerated shipping containers and trailers that are operated in California.

A one-time facility reporting requirement, which was due January 31, 2006, applies to all facilities in California with 20 or more loading dock doors that serve refrigerated areas where perishable goods are loaded or unloaded. The requirement to register with the ARB Equipment Registration (ARBER) system, which went in effect on July 31, 2009, applies to owner/operators of all California based TRUs. Enforcement of the in-use performance standards will begin in 2010.



Enforcement of ARBER requirement started in August 2009. During 2009, 3 TRU fleet cases were settled for over \$69,225 and 104 citations were cleared for \$55,435. See Appendix C, Tables C-11 and C-15 for other statistics regarding this program.

ARB's Diesel Emission Control Strategies Verification

The Regulation for the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines was created and adopted by ARB on May 16, 2002. The goal of the Verification Procedure is to ensure real emission reductions, along with a verified diesel emission control strategy (VDECS) that is durable and compatible with various engines and applications. Under this measure, Enforcement staff investigates issues of retrofit installations, warranty complaints, verification labeling and manufacturer wrongdoings.

For more information about VDECS visit: <http://www.arb.ca.gov/diesel/verdev/verdev.htm>

In-Use Off-Road Diesel Vehicle Regulation

The overall purpose of the In-Use Off-Road Diesel Vehicle Regulation is to reduce emissions of oxides of nitrogen (NOx) and particulate matter (PM) from off-road diesel vehicles.

Beginning in 2008, the regulation imposed limits on idling and required a disclosure of the regulation to the buyer of new or used equipment. In 2009, all vehicles had to be reported to the ARB and labeled with ARB assigned Equipment Identification Numbers (EINs). In 2010, the regulation begins gradual requirements for owners to clean up their fleet by getting rid of older engines, using newer engines, and installing exhaust retrofits. However, these emission reduction requirements can not be enforced because EPA did not issue the necessary waiver as of yet.

Enforcement of the idling limit, disclosure requirement when selling vehicles, reporting and labeling vehicles started in 2009. See Appendix C, Table C-12 and Table C-15.

Solid Waste Collection Vehicle Program

California's Solid Waste Collection Vehicle (SWCV) regulation became effective in 2004. The SWCV regulation reduces cancer-causing particulate matter and smog-forming nitrogen oxide emissions from these trucks.

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 solid waste for a fee. Each year from 2004 through 2010, waste hauling and waste recycling companies are required to retrofit exhaust systems on more of their trucks by installing diesel particulate filters or diesel oxidation catalysts. The ARB must verify these devices for performance prior to installation.

A phase-in is scheduled from 2004 through 2010 to retrofit entire fleets. By December 31, 2007, SWCV fleets were required to reduce particulate emissions from all of their trucks equipped with 1988-2002 MY engines. Fleets with 15 or more vehicles were required to bring into compliance all vehicles with 1960-1987 MY engines. Fleets with 14 or fewer

vehicles have until December 31, 2010 to retrofit 100% of vehicles with 1960-1987 MY engines. Fifty percent of vehicles with 2003-2006 MY engines were required to be brought into compliance by December 31, 2009. The other half of these engines must be brought into compliance by the end of 2010.

The objective is for fleets to have diesel emissions from all of their SWCVs at or below a 0.01grams of PM per brake horsepower (bhp) hour level by 2010.

Enforcement of this program is being conducted with HDVIP and PSIP. During 2009, 8 SWCV fleet cases were settled for over \$687,000 and 86 Notices of Violation were cleared for \$28,500. See Appendix C, Tables C-13 and C-15 for other statistics regarding this program.

#### *Carl Moyer Program and Proposition 1B Goods Movement Emission Reduction Program Compliance Checks*

The Carl Moyer Program provides incentive grants to reduce emissions from heavy-duty diesel engines. The incentive grants offset the cost of replacing older, high-polluting engines with newer engines certified to more stringent emission standards.

Proposition 1B provides funding to cut air pollution and health risks by upgrading diesel equipment that is used to move freight in California.

Before these funds are released, ED staff performs compliance checks on the vehicle's registered owner and the vehicle's identification number (VIN) to determine if there are any outstanding violations within the various enforcement programs. If an outstanding violation is found, the vehicle owner is required to provide proof of compliance and pay all civil penalties before the funds are released. For the 2009 enforcement statistics of this program, see Appendix C, Table C-14.

### **STATIONARY SOURCE ENFORCEMENT PROGRAMS**

The Board's Stationary Source Enforcement Programs conduct oversight and enforcement activities in conjunction with the 35 local air districts. Stationary sources include "point" sources, fixed sources such as petroleum refineries, and "area" sources, sources which individually emit small quantities of pollutants, but collectively emit significant emissions, such as consumer products.

Stationary sources contribute substantially to emissions of criteria pollutants. Up to 50% of the ozone-forming pollutants emitted are from stationary sources. The nature of stationary source pollution is that it is identifiable as from a specific source, whether it is a single facility such as a factory, or a class of sources, such as residential chimneys.

ARB's stationary source enforcement initiatives include the following programs: fuels enforcement, consumer products enforcement, general stationary source enforcement, and strategic environmental investigations and enforcement. Further details regarding the

stationary enforcement programs are discussed in this report, or may be found at <http://www.arb.ca.gov/enf/enf.htm>.

## **FUELS ENFORCEMENT**

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 valuable 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.

### **Highlights**

#### **Field Investigations**

Inspections of motor vehicle fuels are conducted year-round at refineries, import vessels, distribution and storage facilities, service stations, and bulk purchaser/consumer facilities. Fuels inspectors obtain samples of the fuels and transport them to the Enforcement Division's mobile fuels laboratory for analysis to determine whether they comply with the specifications of Phase 3 California Reformulated Gasoline (CaRFG3) regulations and California Diesel Fuel regulations.

Gasoline samples are analyzed for total aromatic hydrocarbon content, benzene content, T50 & T90 distillation temperatures, olefin content, oxygen content (including the oxygenates ethanol and methyl tertiary-butyl ether (MTBE)), Reid vapor pressure, and sulfur content.

Diesel fuel samples are primarily analyzed for total aromatic hydrocarbon content and sulfur content. Samples subject to a diesel fuel alternative formulation are also analyzed for polynuclear aromatic hydrocarbon content, nitrogen content, and cetane number.

In 2009, Fuels staff collected 2,068 samples of gasoline and 499 samples of diesel fuel for a total of 2,567 samples. See Appendix D for data regarding fuels inspections. Further information is at the ARB Fuels Enforcement web page at <http://www.arb.ca.gov/enf/fuels/fuels.htm>.

#### **Mobile Fuels Laboratory**

Use of the mobile fuels laboratory continues to increase sampling capability and shorter turnaround time for sample analysis. The lab contains all the analysis instruments and

support equipment necessary to test for the parameters of gasoline and diesel fuel which are regulated by ARB.

After obtaining fuels samples, inspectors transport them directly to the mobile fuels laboratory for analysis. 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.

In 2009, Fuels staff conducted 20,662 analyses on gasoline and diesel fuel. See Appendix D, Table D-4 for detailed fuels analysis data.

### Phase 3 California Reformulated Gasoline

Changes to the CaRFG3 limits were implemented to give flexibility to producers who may use a Predictive Model for their final gasoline blend. A California model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB) allows producers to project the final parameters of the gasoline after all components are blended.

In 2009, ARB inspectors enforced the Phase 3 regulations by performing over 18,700 analyses on samples of California gasoline collected during fuels inspections.

### Alternative Compliance Options and Self-Reporting

The Reformulated Gasoline and Diesel regulations offer alternative compliance options for refiners and importers of California fuel to meet the motor vehicle fuels standards. These alternative options include: predictive model limits, designated alternative limits, and certified diesel fuel formulations. When a company elects to use an alternative compliance option, the company is required to notify ARB and provide information regarding its alternative compliance limits. Electronic forms which allow producers, importers, and small refiners to submit these notifications are available.

Fuels Enforcement staff monitors and evaluates the data sent by companies to ensure accurate reporting and compliance with company protocols, as well as provide essential information. Staff randomly sample and test the fuel to confirm the accuracy of the reports. In 2009, staff received and evaluated over 2,000 predictive models from producers and importers of California gasoline.

### Fuels Distributor Certification Program

The Fuels Distributor Certification Program provides a list of legally certified distributors to motor vehicle fuels retailers. It 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, companies which have been involved in criminal activity. To be placed on the list of certified distributors, a company must submit an application to ARB which includes its principal place of business and the location of its records.

In 2009, staff certified 275 distributors of motor vehicle fuel in the program. Fuels staff issued its annual list of certified distributors to gasoline and diesel fuel retailers and made it

available to the public on the ARB website. This program is used in conjunction with special investigation and routine inspection activities. For more information, see <http://www.arb.ca.gov/enf/fuels/distcert.htm>.

#### Oxygenate Blender Certification Program

The Oxygenate Blender Certification Program was created to ensure that gasoline blend stock, known as CARBOB, complies with the standards for California Gasoline. Any oxygenate blender must register with the ARB at least 20 days before blending oxygenates with CARBOB. To obtain certification, an oxygen blender is required to provide the facility name and the physical location of records, contact name and telephone number for each blending facility.

In 2009, staff certified over 50 oxygenates blending facilities. Fuels staff posted its annual list of certified blenders at <http://www.arb.ca.gov/enf/fuels/oxyblend.htm>.

#### Red-Dyed Diesel Fuel Enforcement

Diesel fuel that is used solely for off-road equipment is not subject to the state and federal motor vehicle fuels tax that applies to on-road vehicles. The IRS estimates that approximately one billion dollars are lost from the national tax revenue each year due to the illegal use of non-taxed diesel fuel in on-road vehicles. The Board of Equalization (BOE) has contracted with ARB to conduct field inspections to prevent the use of illegal non-taxed diesel fuel. The exempt fuel is dyed red so that inspectors are able to distinguish it from the non-exempt fuel.

Under the contract with BOE, ARB inspectors, whose primary responsibility is to inspect heavy-duty diesel trucks for excessive smoke, also inspect on-road trucks for the illegal use of red-dyed diesel fuel. The inspectors obtain samples of fuel that is suspected of being illegal, and ARB laboratory staff analyzes the samples for the presence of the red dye.

ARB Fuels Enforcement inspectors also conduct special investigations of companies suspected of illegally using red-dyed diesel fuel. The inspection information and the test results are forwarded to BOE for prosecution.

In 2009, staff conducted more than 18,200 red-dyed diesel fuel inspections and found 22 violations. These inspections are conducted as part of the HDVIP program. For more detailed information, please see Appendix D, Table D-6.

#### Cargo Tank Vapor Recovery 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.

Cargo Tank Program staff conduct statewide random inspections of cargo tanks at terminals and loading racks. When a leak is discovered, the cargo tank owner or operator is

issued an NOV and must refrain from reloading gasoline until the cargo tank is brought back into compliance. If a cargo tank is found without a current decal or certification, or if the cargo tank is not maintained in accordance with ARB emission standards, it is in violation, and the owner may be subject to penalties. Inspectors also conduct random inspections of ARB certified testers to ensure that leak tests are being conducted properly.

CTVRP Certification staff administers the annual certification compliance test program. 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 2009, staff certified over 5,400 cargo tanks.

Please see Appendices A and D, Table D-3 for further information regarding inspection and certification results from 2009. For more information about this program, please visit <http://www.arb.ca.gov/enf/cargotanks/cargotanks.htm>.

### Case Development

Case Development staff conducts investigations into violations of fuels regulations. Staff immediately notifies the violating entity in order to remove non-complying fuel from distribution and then begins the investigation. This includes obtaining and evaluating field data and company records to determine the date of onset, cause, and extent of the violation(s). When a violation has occurred, staff will issue a NOV to the violator and initiate settlement negotiations. Most of the fuel specification cases are settled administratively through negotiation; cases that cannot be settled in this manner are referred to the OLA for civil or criminal litigation, with case development staff assisting the prosecution.

In 2009, staff settled or closed 34 fuels cases and collected \$ 1,202,500 in penalties. See Appendices A, Table A-1, and B for an overview of case dispositions and summaries of the significant cases resolved in 2009.

### **CONSUMER PRODUCTS ENFORCEMENT**

Consumer products such as deodorants, hair sprays, cleaning solvents, spray paint and insecticides are examples of common everyday products that are made with ozone-forming volatile organic chemicals (VOCs). Although each consumer product contains only a small amount of VOCs, Californians use over half a billion of these products every year. The cumulative VOCs in these products contribute to particulate matter pollution and are an important precursor in the formation of ground level ozone, which is a major part of California's smog problem. ARB regulates the amount of VOCs permissible in approximately 125 categories of consumer products in order to reduce smog and public exposure to hazards associated with smog. While other states are also implementing similar regulations, the challenges of achieving safe and healthy air in some of California's air basins has forced this state to a position of leadership in regulating reduced emissions of ozone precursors.

Consumer Product Enforcement Section (CPES) staff travels throughout California conducting inspections and collecting consumer product samples for laboratory analysis, as



well as purchasing samples online and through mail order outlets. CPES staff logs all samples into a dedicated sample tracking database, then transfers the acquired products under legal chain-of-custody to ARBs Monitoring and Laboratory Division (MLD) for testing of VOC content or the presence of toxic compounds prohibited under California regulations. MLD has developed specific testing methods to determine product compliance with California regulations.

In addition to their caseloads regarding VOCs and the chemical content of products, CPES investigators are increasingly responsible for the enforcement of other product regulations adopted to reduce emissions into the air, such as portable fuel containers and charcoal lighter materials. Portable fuel containers and their spouts are required to be certified to limit emissions from evaporation, permeation and spillage. Charcoal lighter materials must be certified as meeting air emission standards prior to sale in California.

After receipt of laboratory analysis or performance testing, the consumer products are compared to California standards and CPES staff investigates to determine if there have been actionable violations of the Consumer Products Regulations. When a violation is determined, staff either works with the manufacturers or retailers to reach a mutual settlement agreement, or refers the case to the Office of Legal Affairs. CPES staff settled 45 consumer products cases and 9 portable fuel container cases this year. We collected \$1,687,660 in penalties for consumer products and \$63,750 in penalties for portable fuel container cases during 2009.

Additional regulations are coming into force requiring indoor air cleaners to meet ozone emission standards, and outboard marine fuel systems are having engineering standards phased in which seek to limit emissions. As a result, CPES investigators and testing staff in the Monitoring and Laboratory Division have expanding workloads to investigate, test and enforce ARB's increasing regulatory requirements over new classes of consumer products and their emissions. These increased workloads are being directed to staff at the same time as available resources and work hours have been reduced.

## **Highlights**

### **Portable Fuel Containers and Spouts**

In 2009, staff observed significantly fewer numbers of non-compliant portable fuel containers being offered for sale in California. As a result, ARB has decreased the number of samples purchased during 2009 and primarily purchased only uncertified models. ARB believes that the lower incidence of non-complying containers can be attributed to several factors including: ARB's new certification program; a reduction in the number of portable fuel container manufacturers; the implementation of the US EPA national regulation; and the regulatory change that clarified that utility jugs were subject to the regulation. We intend to shift focus to testing certified models for compliance with the performance specifications as soon as the construction of the testing SHED is completed in Sacramento.

### **Charcoal Lighter Material**

All "charcoal lighter material" must be certified prior to being sold in California and must demonstrate that the emissions during use are less than 0.020 pounds per start. Products

must be tested by an approved laboratory, issued a certification from the South Coast Air Quality Management District, and issued an Executive Order from ARB's Executive Officer prior to sale in California. Enforcement Division staff has completed several enforcement actions against manufacturers who: claimed to be unaware of the requirements and had not completed any emission testing; failed to submit an application to ARB for an Executive Order after completing the South Coast process; failed to add new Product / Brand Names to previously issued certifications; or failed to mark the product with a date of manufacture. The failure to complete all steps can result in the issuance of a Notice of Violation; however, cases where companies avoided emission testing requirements were subject to greater penalties.

#### *Portable Outboard Marine Tanks Regulation*

On September 25, 2008, the Board adopted new regulations limiting the permeation and diurnal emissions from the tanks, caps, hoses, hose fittings, and primer bulb assemblies used to store and supply fuel to outboard marine engines. Outboard marine tanks and their components are made primarily from plastics, which may be permeable to gasoline and may leak vapors and liquids. Because of their large numbers, these devices have the potential to create substantial hydrocarbon emissions resulting in ozone formation and other health-related problems. CPES staff is continuing to work closely with the Monitoring and Laboratory Division to implement the regulations, and maintains frequent contact with industry stakeholders in support of their efforts to achieve compliance.

#### *California Certified Air Cleaning Devices*

Public concern about indoor air has resulted in a growing market for the sale of indoor air cleaning devices to improve air quality; however some of these technologies emit ozone as a by-product of their operations, particularly ionizers and electrostatic precipitators. In 2007, the Air Resources Board adopted a regulations to require that all portable indoor air cleaning devices sold in California after October 18, 2010 must be certified to meet ozone emission standards of not greater than 0.050 parts per million. CPES staff has been working with Indoor Air Quality Program staff as they implemented the regulation, certified devices, and modified the regulation to address labeling issues.

#### *Imported Product Issues*

CPES staff is dealing with several cases involving foreign-manufactured imported products. Violations caused by products manufactured inconsistently from specifications, diversion of non-compliant products into California from other markets, and non-compliant potential counterfeit products were all documented in 2009. Many of these violations could have been avoided through product testing by the importing company and dealing with reputable suppliers.

#### *2009 Summary of Changes to Consumer Products Regulation*

The 2009 changes to the Consumer Products Regulation include new and modified definitions, revised volatile organic compound (VOC) limits, and amendments to ARB Test Method 310. New labeling requirements, as well as special reporting requirements are required for Multi-purpose Solvents and Paint Thinners. Flammable or extremely

flammable Multi-Purpose Solvents and Paint Thinners, Clean-up Solvents or Paint Clean-up Products must not be sold in California unless they have an attached hang tag or sticker that shows that the product meets California VOC limits or the common name of the chemical compound is displayed on the principal display panel in order to mitigate flammability impacts. Additionally, Multi-purpose Solvents and Paint Thinners will be prohibited from the following: using perchloroethylene, methylene chloride, and trichloroethylene; having greater than 1% Aromatic Compounds by weight, and a GWP of 150 or greater in their products effective December 31, 2010. In addition, Double Phase Aerosol Air Fresheners, that contain a global warming potential (GWP) of 150 or greater are prohibited from being sold into California effective December 2012.

#### Multiple Air Freshener Cases

In 2009, air freshener products introduced into the California marketplace were still on the rise, and CPES saw its caseload expand accordingly in this product category. A wide variety of both imported and domestically manufactured products were investigated, including reed diffusers, scented lamp fuel, gel beads, and products designed for use in home air conditioning units. Many of the products are not in compliance with the air freshener categories, and staff continues to spend a significant amount of resources investigating the extent of the problem. Ten air freshener cases were settled in 2009, and several more cases are pending.

#### Various Retailer Cases

The Consumer Products Regulations apply not only to manufacturers of consumer products, but also to retailers who supply and sell consumer products for use in the state of California. During 2009 CPES staff settled multiple cases involving retailers who sold non-compliant consumer products and portable fuel containers in California. Some of cases involving retailers included non-compliant store brand products, products shipped to California from out of state distribution centers against the instruction of the manufacturers, and non-compliant products shipped to California stores from California distribution centers where the products were designated for out of the state use. In addition, CPES staff took enforcement action against several retailers who failed to respond to requests for product and sales information in violation of the reporting requirements of the Consumer Product Regulations.

### **STATIONARY SOURCE ENFORCEMENT**

The Stationary Source Enforcement Section (SSES) is responsible for overseeing certain enforcement programs and activities established to ensure compliance with air pollution rules and regulations. The programs and activities that the section oversees are presented below. Please refer to Appendix E for additional statistics of these programs and activities.

#### **Highlights**

##### Complaint Hotline

The Complaint Hotline- (800) 952-5588 – provides a means for citizens throughout the state to call and voice their concerns regarding air pollution problems. Citizens call to alert

ARB of persistent odors, emissions from industry, vapor recovery equipment problems at gas stations, smoking vehicles, and to ask questions regarding air pollution. Every call received is recorded, assessed, and either referred to the appropriate air district or agency, or investigated by ARB. In 2009, staff responded to 951 complaints/questions – See Appendix E, Table E-1.

### Variances

HSC regulations authorize air district hearing boards to grant variances to stationary sources that are or will be out of compliance with district rules or HSC Section 41701. A district hearing board is also authorized to issue an Order of Abatement, requiring a source to stop operations unless the source can meet specific operating conditions. A petition for a variance or abatement order must be brought before an air district's hearing board, which grants or denies the petition, based on a set of criteria defined by HSC.

The SSES reviews all hearing board orders for compliance with HSC requirements, and sends a letter requiring corrective action to the affected air district and hearing board if the board order does not comply with the mandated requirements. SSES also maintains a database to monitor all activity related to board orders.

Staff attends hearings conducted by air district hearing boards and performs audits of the districts' variance programs to evaluate their effectiveness. In 2009, staff addressed 82 hearing board issues and reviewed 494 variances and abatement orders - See Appendix E, Table E-2.

### Air Facility System

The SSES oversees the collection, input, and quality assurance of the compliance and permitting data entered into U.S. EPA's AFS database for 26 of the 35 air districts. The AFS Program consists of a Full Compliance Evaluation Program and a High Priority Violators Program. The FCE Program calls for the districts to supply the ARB with data for Title V certification report reviews, inspections, and source tests. SSES staff uploads the data into the AFS database and pulls bimonthly (every 60 days) reports for the 26 districts and for U.S. EPA.

The HPV Program calls for the air districts to report District NOVs and SSES staff determines if the NOVs meet the U.S. EPA threshold for an HPV. Staff uploads identified HPV data into the AFS database and pulls monthly reports for the 26 districts and U.S. EPA, performing quality assurance on existing and supplied AFS data.

Staff conducts mini-audits where supporting documentation, supplied data, and the practices for the FCE and HPV programs are reviewed. SSES staff also assists U.S. EPA in training district personnel to effectively use the AFS database. In 2009, staff entered 81 FCE reports and 45 HPV reports. See Appendix E, Tables E-3 and E-4.

### Continuous Emission Monitoring Program

Any stationary source that an air district requires to install and operate a continuous emission monitor is also required by HSC section 42706 to report the violations of emission

limits recorded by the CEM to the air district, and the air district, in turn, must report them to ARB. SSES collects, stores, analyzes and reports this information. In 2009, staff received and processed 681 reports. See Appendix E, Table E-5.

### Rule Review

ARB works cooperatively with local air districts to ensure that the district regulations that are adopted will achieve the most effective air pollution control and will obtain maximum emission reductions. The Rule Review Program staff accomplishes this by carefully reviewing rules for clarity and enforceability, for accuracy and complete definitions, for the presence of test methods, for optimum emission device efficiencies, and for recordkeeping requirements.

The district is notified verbally of errors and deficiencies, followed by a formal written comment letter which includes suggestions for ensuring the rule is enforceable.

Thorough review of draft rules has proven vital in reducing the need for amending subsequent adopted rules, and nearly eliminating the need for ARB to identify rule deficiencies at public hearings. ED reviews 90 percent of all air district rules submitted to ARB. In 2009, ED staff reviewed 142 rules - See Appendix E, Table E-6.

### Complaint Investigation

The SSES conducts special investigations of stationary source complaints referred to ARB by state citizens, air districts, by the office of Legal Affairs, the Executive Office, and by other agencies. SSES conducts compliance inspections to assist other ED sections with case development and special projects to ensure compliance with all HSC requirements concerning stationary sources. SSES is also required, by ARB's U.S. EPA 105 Grant, to collect quarterly CEM reports from sources in non-grantee districts delegated Prevention of Significant Deterioration (PSD) and New Source Performance Standards (NSPS). In 2009, staff completed ten complaint investigations and four special projects and received 195 CEM reports and sent 215 reports to U.S. EPA - See Appendix E, Table E-7.

## **STRATEGIC ENVIRONMENTAL INVESTIGATIONS AND ENFORCEMENT**

Traditionally, the Strategic Environmental Investigations and Enforcement Section (SEIES) conducts special and joint investigations of "cross media" environmental cases. Cross media cases involve multiple areas of environmental regulation governing air, water, soil, toxic waste, regular waste, or pesticides. SEIES investigations may also include coordination with enforcement jurisdictions that fall outside the environmental field. The Section works under a Memorandum of Understanding (MOU) with Cal/EPA to provide the investigative services necessary to fulfill Cal/EPA's statutory enforcement responsibilities.

SEIES has also been traditionally tasked with providing enforcement assistance to local air districts and other local and regional environmental agencies. This assistance includes facility inspections, complex investigations, surveillance technology, and case preparation. SEIES staff also actively participates in a number of environmental task

forces throughout the state. These traditional responsibilities remain, but SEIES began facing new duties and challenges in 2009.

In 1998, the California Legislature identified diesel particulate matter (PM) as a toxic air contaminant. In October 2000, the Air Resources Board adopted a Diesel Risk Reduction Plan. Subsequently, a number of new regulations have been adopted. Starting in 2006, SEIES staff has helped to implement certain new rules at rail yards, ports, and marinas. These new regulations are collectively known as the “Goods Movement” regulations. Some major new goods movement inspection programs went into effect for the first time in 2009.

Another new rule for 2009 is the ATCM to Reduce Formaldehyde Emissions from Composite Wood Products. SEIES staff has been actively implementing this regulation beginning in January 2009. The formaldehyde and goods movement regulations have profoundly changed the nature of SEIES.

In 2009, SEIES successfully concluded cases valued at \$38,825 in penalties and mitigation costs. This does not include significant penalties collected by local air districts or US EPA. Many cases generated during 2009 remain in development. See Appendix E, Table E-8.

### **Highlights and Activities**

#### **American Home Furnishings Alliance Conference – Outreach Opportunity**

On April 1, 2009, SEIES conducted a webinar presentation (Internet teleconference) for the American Home Furnishings Alliance (AHFA) annual meeting, which was taking place on the East coast. The presentation by SEIES staff gave a comprehensive overview of the enforcement program for the Airborne Toxic Control Measure to Reduce Formaldehyde Emissions (ATCM). Staff was also available at the end of the presentation to answer questions and clarify the requirements of the ATCM. AHFA members are made up primarily of fabricators, importers, distributors, and retailers of furniture made with composite wood products. SEIES staff has been working closely with this and many other trade associations to help the regulated industry understand and comply with the new regulation. SEIES staff is dedicated to continuing work with the regulated community.

#### **Angus Petroleum Corporation Complaint Investigation**

SEIES staff conducted a complaint investigation in Huntington Beach. A citizen complaint was received against the Angus Petroleum Corporation on November 24, 2009. Since 1988, Angus Petroleum operates an oilfield in a residential neighborhood in Huntington Beach. In several southern California communities, oilfields can occur across the street from residences. The complaint concerned odors and occasional smoke. The property has two distinct units: a production area containing 34 wells in two well chambers and a tank farm containing crude oil temporary storage tanks, oil/water separation tanks and oily water storage tanks. A light to moderate odor was observable in the immediate area, but the minimum threshold of six verified odor complaints (Rule 402, *Nuisance*) was not achieved. Staff interacted with SCAQMD staff who was conducting surveillance in the area at that time. Staff discussed the nuisance complaint policy with the neighbors and provided

information on ARB's idling vehicle regulation.

*APL Eagle Marine Services – Goods Movement Investigation*

On September 14, 2009, APL Eagle Marine Services reached a settlement for violations of the Cargo Handling Equipment (CHE) rule. ARB showed that APL Eagle Marine Services failed to properly report diesel powered equipment that was subject to this regulation. They paid \$35,625 in penalties, including \$26,718.75 directly to ARB, \$4,453.12 to the California Pollution Control Financing Authority, and \$4,453.13 as a supplemental environmental project (SEP) for the Peralta Community College District. The SEP will support the California Council on Diesel Education and Technology.

*Asbestos Inspections*

SEIES implements the federal asbestos NESHAP Program and investigates all related complaints. Of the 35 air districts in California, 19 of these districts do not have an asbestos enforcement program in place. For these “non-delegated” air districts, SEIES receives and reviews asbestos notifications. Also, SEIES conducts inspections and investigations of asbestos abatement during demolition and renovation to determine compliance with the asbestos NESHAP.

This program includes two asbestos NESHAP task force workshop meetings annually for the delegated air districts and US EPA. The purpose of these workshops is to facilitate communication and enforcement consistency. SEIES staff also assists US EPA personnel with the training of district staff to enforce the asbestos NESHAP. In 2009, staff received and reviewed 1,157 notifications, addressed 697 asbestos issues, inspected 80 asbestos projects and investigated 6 complaints.

*Attorney General Requests Investigative Assistance*

The Attorney General's (AG) Office requested investigative assistance from SEIES in the matter of Big Valley Power LLC in Bieber. Bieber is a community in the Lassen County Air Pollution Control District (LCAPCD). Tehama County Air Pollution Control District (TCAPCD) assists LCAPCD under a Joint Powers Agreement to provide engineering assistance, file reorganization, and general operational assistance.

Big Valley Power has operated in Bieber since the 1970s as Big Valley Lumber Company. In the 1990s, the facility was operating two wood-fired cogeneration boilers for steam supply for its lumber facility and was selling 7.5 megawatts (MW) of electricity to Pacific Gas & Electric Company (PG&E). The facility had been subject to Title V permit in the past. The plant closed in early 2009, but there are plans to reopen the facility under the terms of a 20-year Renewable Energy Contract with PG&E.

AG staff routinely review these contracts. They noticed that a multiclone was listed as the sole emission control device. Generally, cogeneration facilities are subject to best available control technology (BACT), employing both a multiclone and an electrostatic precipitator (ESP) or a baghouse to control fine particulate matter (PM). On August 10, 2009, SEIES staff participated in a meeting at the Big Valley Power LLC facility with representatives of LCAPCD, the Lassen County Community Development Department, TCAPCD, and the

Plant Manager for Big Valley Power LLC. The operator wants to avoid Title V designation and BACT requirements. They plan to accomplish that by limiting the facility's operating hours to keep annual PM emissions less than 100 tons per year.

*Boise Cascade Investigation*

SEIES was informed that Boise Cascade was selling hardwood plywood in California labeled as being certified by Hardwood Plywood Veneer Association (HPVA), a Third Party Certifier. HPVA does not have Boise Cascade in their certification program. The case was investigated and determined that the actual manufacturer of the panels was States Industries who is certified by HPVA. Boise Cascade was not the manufacturer and was only marketing the panels under their name. This is an accepted practice and not a violation of the ATCM for formaldehyde in composite wood products.

*California Hazardous Materials Investigators Association Conference*

SEIES staff attended the California Hazardous Materials Investigators Association (CHMIA) annual conference in Shell Beach from March 11 to March 13, 2009. The 3-day meeting was unusual in that the first day, March 11, 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 a great success and will be held at the same place at around the same time in 2010.

*California Maritime Leadership Symposium*

On May 12 through 14, 2009, SEIES staff attended the California Maritime Leadership Symposium in Sacramento. The symposium was hosted by various port and harbor associations. This three day event highlighted the importance of ports and harbors, presented new and proposed laws and regulations that will affect ports, and introduced developing green technologies. Participants represented both industry and government.

*Cargo Handling Equipment Inspections*

The purpose of the Cargo Handling Equipment (CHE) regulation is to reduce diesel particulate matter (PM) and criteria pollutant emissions from compression ignition mobile cargo handling equipment that operates at ports and intermodal rail yards in the state of California. Examples of this type of equipment include yard trucks, rubber tire gantries, side picks, and forklifts. SEIES staff inspected 603 pieces of CHE in 2009 settled a case with APL Eagle Marine Services for \$35,625.

*Commercial Harbor Craft Inspections*

The commercial harbor craft inspection program began in 2009. SEIES staff inspects commercial harbor craft for compliance with the regulations. Harbor craft include tugboats, crew boats, and excursion (tour) vessels. Parties subject to the regulations are required to



file an Initial Report with ARB. The Initial Report documents engine and vessel information. Staff inspected 113 harbor craft in 2009 and issued violations to two companies that failed to file an Initial Report. SEIES staff will continue to monitor commercial harbor craft in 2010 to ensure compliance with the regulations.

*Composite Wood Air Toxic Control Measure Inspections*

On January 1, 2009, the ATCM to Reduce Formaldehyde Emissions from Composite Wood Products became effective. The regulation targets composite wood panels that are typically manufactured using urea formaldehyde resins and glues, specifically hardwood plywood, medium density fiberboard, and particle board. Any finished goods produced with regulated composite wood panels also fall under the scope of the ATCM. SEIES staff worked throughout 2009 to organize and launch the comprehensive enforcement program, perform facility inspections, prepare samples for laboratory testing, conduct presentations for industry groups, and respond to inquiries from the regulated community and the public. Development of the furniture deconstruction procedure and sample preparation procedure are ongoing. The sell-through dates for all non-compliant panels and finished goods were consolidated and extended until December 31, 2010. Current enforcement efforts are focused on fraudulently labeled composite wood products.

*Imperial County Air Pollution Control District Inspection Assistance*

SEIES staff conducted follow-up inspections on the All-American Canal Lining Project in Winterhaven on January 14, 2009, March 13, 2009, and June 18, 2009. This project is in the Imperial County Air Pollution Control District (ICAPCD). Staff verified that all equipment was operating in compliance with valid ICAPCD permits or PERP registrations. 14 equipment units that had valid PERP certificates were subsequently converted to ICAPCD permits. No violations of ICAPCD regulations or PERP requirements were observed.

*Incinerator Inspections on Ocean-Going Vessels*

SEIES staff inspected incinerator operations on 6 cruise ships and 126 container, and tanker vessels calling at the Ports of Los Angeles, Long Beach, Oakland, Stockton, Port Hueneme, Benicia, and San Diego in 2009. Staff did not document any occurrences of burning garbage within three miles of the California coastline (HSC §39630-39632). All such garbage incineration occurred outside the three-mile limit and was verified by documenting the vessels' garbage incineration logs, which give latitude and longitude coordinates for the initiation and cessation of garbage incineration.

Originally, this ATCM regulation applied only to cruise ships. On January 1, 2006, restrictions on incinerator operations were expanded to cover all ocean-going vessels. Staff continued to conduct incinerator inspections during all ocean-going vessel inspections during 2009 and continued to conduct an even more thorough inspection of cruise ships. No violations of the incinerator rule were documented during 2009.

*International Wood Products Association Annual Conference – Outreach Opportunity*

On May 25, 2009, SEIES staff spoke via Internet teleconference at the International Wood Products Association Plywood Committee annual conference in Indian Wells, California.

The presentation provided a comprehensive overview of the compliance requirements for the Airborne Toxic Control Measure to Reduce Formaldehyde Emissions (ATCM). The first effective date for the ATCM was January 1, 2009. This is one of many outreach efforts ARB staff has participated in, and SEIES staff is dedicated to continuing the outreach efforts.

*Los Angeles District Attorney Requests Investigative Assistance*

SEIES staff received a request for investigative assistance from the LA County District Attorney's Office in the matter of S & A Recycling, a large auto shredding operation located on Terminal Island. About two years ago, the facility experienced a fire that completely destroyed a baghouse that served as their emission control device. The facility attempted to jury rig a replacement, but complaints came in from the public concerning visible emissions, odors, and fugitive dust. SEIES staff learned that SCAQMD Permit Services staff was working with the facility to upgrade its equipment and apply for necessary permits, including the installation of a regenerative thermal oxidizer. Upon completion of this work, ARB and SCAQMD jointly inspected this facility and observed a formal source test.

*Marina Low-Sulfur Fuel Inspections*

The marina fuel dock inspection program began in 2007, after the regulations governing ARB on-road diesel fuel were expanded to cover harbor craft. In 2009, SEIES staff collected samples of marine diesel fuel and reviewed records at 27 marina fueling docks located in northern and southern California. These facilities are located on both coastal and inland waterways. The samples were taken to verify compliance with the on-road diesel specification, and were tested by the fuels lab in El Monte and ARB's mobile lab. No violations of the standard were uncovered in 2009. SEIES will continue to monitor marina fuels in 2010 to help ensure continued compliance with the ARB diesel standard.

*Non-Toxic Dry Cleaning Equipment Verification Inspections*

In 2009, SEIES staff inspected 5 facilities in southern California for SSD staff. AB 998 established the Non-Toxic Dry Cleaning Incentive Program to provide financial assistance to the dry cleaning industry to switch from systems using perchloroethylene, or "perc," an identified toxic air contaminant and potential human carcinogen, to non-toxic and non-smog-forming alternatives. These inspections confirmed the use of the alternative Water-Based Cleaning Systems and the removal of the "perc" equipment.

*Northern Sierra Air Quality Management District Investigative Assistance*

During 2009, SEIES investigated concerns expressed by 20 Loyalton residents about emissions from a SPI cogeneration plant in Loyalton. Loyalton is located on Highway 49 north of Truckee and west of Reno, with the SPI facility located on the south edge of town. SEIES staff worked cooperatively with Northern Sierra Air Quality Management District (NSAQMD) and ARB Monitoring and Laboratory Division staff on an air monitoring plan. On January 12, 2009 staff met with Loyalton residents to hear their concerns first hand and to develop a plan of action with NSAQMD staff. SPI was cited by NSAQMD for opacity violations and their Title V permit was adjusted to address certain operational issues that were contributing to the visible emissions. The plant ceased operating and was mothballed on October 1, 2009.

*Ocean-Going Vessel Fuel Sulfur Requirements Inspections*

In Sacramento on June 30, 2009 US District Judge Morrison C. England, Jr. cleared the way for ARB to begin enforcing new regulations that limit sulfur in fuel for ships traveling within 24 miles of the state's coast. The decision denied a motion for summary judgment brought by the Pacific Merchant Shipping Association, which argued that California had no authority to regulate ships beyond the three-mile limit of state. This decision is now on appeal. The regulations went into effect July 1, 2009.

During the second half of 2009, SEIES staff inspected ocean-going vessels at the Ports of Los Angeles, Long Beach, Oakland, Stockton, Port Hueneme, Benicia, and San Diego. Staff boarded 134 vessels throughout California and obtained samples of low sulfur marine distillate fuels for laboratory analysis to verify compliance with the sulfur specification that applies to marine gas oil (DMX or DMA grade, 1.5% sulfur) or marine diesel oil (DMB grade, 0.5% sulfur).

Staff also obtained copies of records such as low sulfur marine distillate fuels purchase receipts from bunkering and fuel switching documentation, to verify compliance with regulations that apply to ocean-going vessels while in port or traveling within 24 nautical miles of the California baseline. This area is known as the "Regulated California Waters." Fuel samples were transferred to the laboratory and analyzed for sulfur content, following International Standards Organization 8754. Seven total violations were documented during 2009. These cases are pending settlement.

To improve the efficiency and overall effectiveness of this program, SEIES staff have trained other enforcement personnel in OGV inspections. ARB Fuels Enforcement Section staff have been trained to do OGV inspections on petroleum tankers when they tie up at refineries. Several local air district inspectors have joined SEIES staff for OGV inspections in their jurisdiction.

*Portable Equipment Registration Program Inspections*

SEIES staff inspected 105 portable equipment units in 2009. Examples of this type of equipment include towable generators and air compressors powered by internal combustion engines rated at 50 horsepower or greater. This type of equipment may be registered with the state's PERP in lieu of air pollution permits from local air districts.

*Railyard Diesel Risk Reduction Inspections*

During 2009, SEIES made two rounds of inspections (the first in April/May 2009 and the second in September/October 2009) of the 32 "covered" and "designated" rail yards identified in the ARB/Railroad Statewide Agreement, which is commonly known as the "Railroad MOU." To better assure statewide compliance, MOU enforcement activity includes locomotives outside the covered and designated rail yards.

SEIES staff evaluated 3,240 locomotives for compliance with idling and visible emission standards. Staff also sampled locomotive fuel at some rail yards to enforce the sulfur fuel standard. The number of locomotives evaluated in 2009 jumped by 1,213 compared to 2008—a 60% increase. This increase is attributed to the downturn in the economy, which

necessitated storage of surplus locomotives from around the western United States at California rail yards.

22 NOVs and 30 Notices to Comply (NTCs) were issued during 2009. The number of NOVs issued in 2009 decreased by 10 compared to 2008, and 2008 was a significant improvement over 2007. As a result, the overall compliance rate is an excellent 99.3%.

The entire SEIES staff assists with these inspections. To improve the efficiency and overall effectiveness of this program, SEIES staff have trained local air district personnel to do Railroad MOU inspections. In 2009, participants in this program included representatives of the Placer County Air Quality Management District, Bay Area Air Quality Management District, and San Joaquin Unified Air Pollution Control District. Participation by local air districts helps provide a consistent and timely response to complaints from the public concerning idling or smoking locomotives.

#### *Railroad Idle Reduction Program Settlements*

SEIES staff has the lead role in enforcing the “ARB/Railroad Statewide Agreement,” commonly referred to as the Railroad MOU. This is the fourth year of the MOU, which involves enforcement and ongoing coordination with each Railroad. During 2009, 22 NOVs were issued to Union Pacific (UP) and BNSF Railway (BNSF). Nine those 2009 NOVs were settled during the calendar year for a total of \$3,200 in penalties. The remaining NOVs were resolved in 2010.

#### *Sacramento Metropolitan Air Quality Management District Investigative Assistance*

ARB assisted the Sacramento Metropolitan Air Quality Management District (SMAQMD) with writing and serving an inspection warrant at Hardesty Sand and Gravel in an unincorporated area of Sacramento County. SEIES staff, ED management, and OLA attorneys met with SMAQMD representatives several times in 2009 to coordinate activities. In one of these meetings, the parties involved interviewed a consultant who represents undisclosed local complainants. This facility holds some portable equipment “PERP” registrations. On two occasions, the operator of the sand and gravel operation, Mr. Joe Hardesty, refused admittance to SMAQMD inspectors and management representatives. Therefore, an inspection warrant was needed. The warrant was served during March 2009. Several unpermitted diesel engines were identified at the facility when the warrant was executed. However, Mr. Hardesty contested SMAQMD’s jurisdiction and refused to apply for permits. The matter was heard by the SMAQMD Hearing Board over six hearing dates in June and July 2009. SEIES and ARB Legal Office staff observed these proceedings. The SMAQMD prevailed and a written Abatement Order was ultimately issued on September 4, 2009. On October 2, 2009, Mr. Hardesty filed a Petition for Writ of Mandate seeking to overturn the SMAQMD Abatement Order. This matter remained unresolved through 2009 and the court case will be heard in 2010.

#### *Sierra Pacific Industries Supplemental Environmental Program Monitoring*

SEIES staff began an investigation of Sierra Pacific Industries (SPI) in 2000 based on a

complaint of excessive visible emissions from SPI's Susanville facility. The case grew to include other facilities and additional violations. SEIES worked in conjunction with staff of the Placer County APCD, U.S. EPA, and the AG to bring this case to a successful conclusion. The case was settled on June 26, 2007 with an \$8,498,500 cash penalty, to be shared by Placer County, the AG and ARB.

SPI committed to spending the remaining \$4.5 million on SEPs. These SEPs involve facility improvements above and beyond rule requirements at the Lincoln, Quincy, Loyalton, and Standard mills, and will be completed within four years. In 2009, investigators in SEIES continued to monitor SPI facilities to ensure that the SEP is being implemented.

#### *Systems Abatement and Marymead Housing – Asbestos Investigation*

In 2008, SEIES staff conducted an investigation of Systems Abatement for renovating a structure without notifying ARB. This is a violation of the federal asbestos NESHAP regulations. US EPA and SEIES investigators determined that the structure, Marymead Housing Units in Redding, California, was renovated in 2008 by Systems Abatement. The owner, Marymead Housing, and the asbestos contractor failed to notify US EPA and ARB about the renovation before it occurred, as required by NESHAP regulations. US EPA collected \$12,900 in penalties for this case in September 2009.

#### *Transport Refrigeration Unit Inspections*

Transport Refrigeration Units (TRUs) are refrigeration systems used for commercial transportation that are powered by a small integral diesel engine. TRUs are used on insulated vans that are mounted on trucks and semi-trailers. TRU generator sets (TRU gen sets), which are also covered under the TRU regulation, are generator sets designed specifically for providing electric power to the electrically driven refrigeration systems, such as those that are found on ocean-going refrigerated shipping containers and trailers.

The deadline for registering California based TRUs in the Air Resources Board Equipment Registration (ARBER) database was July 31, 2009. SEIES engaged in a month long inspection campaign to evaluate the quality of information submitted to the ARB and to gauge the level of compliance. The inspections were carried out at all the major ports throughout California, including the Ports of Long Beach, Los Angeles, Hueneme, San Diego, and Oakland.

During this initial inspection campaign, most inspections were limited to verifying that the identification number and/or serial number on the genset matched the information listed in the ARBER database. SEIES investigators found that many of the gensets were registered but that some of the information provided to ARBER at the time of registration was either incorrect or incomplete. SEIES staff will continue to inspect and re-inspect the ports to correct any deficiencies and prepare for the next TRU compliance milestone in January 2010.

#### *US Borax Complaint Investigation*

SEIES staff conducted a joint complaint investigation and inspection at US Borax with Kern County Air Pollution Control District (KCAPCD) staff and management in Boron on

September 24, 2009. Cal/EPA had received a letter alleging improper abandonment of a county road, illegal expansion of the open-pit mine and general illegal activities at the facility. Staff documented a violation of the Fugitive Dust Rule (KCAPCD Rule 402) wherein facility staff had initiated material movement activities at the 60-acre landfill without prior application of water for which the facility received a Notice of Violation (NOV). The balance of the facilities' activities was in compliance with the district regulations and with Subpart 000 of the Federal New Source Performance Standards (Non-metallic Mineral Processing Plants).

#### Yolo Solano Air Quality Management District Inspection Training Assistance

The Yolo-Solano Air Quality Management District (YSAQMD) requested training assistance from ARB to help train their group of newly hired inspectors. A number of times, SEIES staff traveled to the YSAQMD offices in Davis to conduct the training. The focus of this training was inspections at automotive refinishing facilities. Inspectors were taken to local auto body shops to learn inspection techniques and the basics of auto refinishing.

### **Notable Upcoming SEIES Activities in 2010**

#### New Inspection Programs

In 2010, SEIES will ramp up inspection and enforcement programs that started in 2009. This includes the ocean-going vessel main, auxiliary engine, and auxiliary boiler low-sulfur fuel regulation, shore power requirements, cargo handling equipment, harbor craft, transport refrigeration unit, and drayage truck programs that started in 2009. January 2009 was also the first effective date for the ATCM to Reduce Formaldehyde Emissions from Composite Wood Products.

#### Surveillance Investigative Assistance

The SEIES surveillance unit continues to assist state and local agencies, including local air districts, in their investigations of environmental criminal activity of all kinds throughout the state. ARB has used remote video surveillance to gather evidence of environmental crimes since 1993. As a contribution to the Cal/EPA task force concept, ARB provides the service (both the equipment and a technician to install it) free of charge to environmental investigators in California.

SEIES works closely with investigators specifically to provide covert video, either digital or analog, to the investigating teams for the various agencies. Video evidence is a highly effective tool in environmental crime enforcement, and its use by state and local agencies continues to grow.

### **GREEN HOUSE GAS ENFORCEMENT**

The Greenhouse Gas (GHG) Enforcement Section was formed in December 2007, as a result of AB 32 (the California Global Warming Solutions Act of 2006).

In 2009, the primary focus of the GHG Enforcement Section was providing input on the

enforceability of proposed strategies and draft language.

Staff worked with regulation writers from other ARB divisions to analyze proposed regulations. We provided comments for improving regulatory language, offered enforcement strategies and options, and provided estimates on resources needed to enforce each new regulation.

### **Highlights**

Specifically, staff worked on the following regulations:

- Mandatory GHG Emissions Reporting;
- Market-Based Compliance Mechanisms (Cap and Trade);
- Reduction of Hydrofluorocarbon Emissions from Do-it-Yourself Motor Vehicle Air Conditioning Servicing;
- Landfill Methane Control;
- Sulfur Hexafluoride Reduction in Non-Semiconductor Applications;
- Sulfur Hexafluoride in semiconductor applications;
- Sulfur hexafluoride in the electricity sector;
- Heavy-Duty Vehicle GHG Emission Reduction Measure;
- Reduction of Fluorinated Gases from Semi-Conductor Operations;
- Low Carbon Fuel Standard;
- High GWP GHG Refrigerant Management; and
- Cool Cars Measure.

To help new and existing regulatory staff gain or improve skills to effectively write clear and enforceable regulations, GHG Enforcement Section staff speaks at the periodic training on ARB's regulation development process offered by the Board Administrative & Regulatory Coordination Unit (BARCU).

The Enforcement Case Tracking Project (ECTP) has completed primary construction of its first data base for Heavy Duty Diesel Fleets, with on-going updates anticipated shortly. From this point forward this and other tracking database projects are being managed at the Division level.

In addition to direct regulation, AB 32 calls for consideration of market mechanisms. ARB's Scoping Plan for AB 32 outlines a "cap-and-trade" program that will link to the cap-and-trade program being developed by the Western Climate Initiative (WCI). WCI, founded in February 2007, is a collaboration of seven U.S. Governors and four Canadian Premiers working together to promote environmental sustainability and economic growth by the

reduction of greenhouse gas emissions.

Specifically, WCI calls for the reduction of emissions by 15 percent below 2005 levels by the year 2020. The WCI partners are the U.S. states of Arizona, California, Montana, New Mexico, Oregon, Utah, and Washington, and the Canadian provinces of British Columbia, Manitoba, Ontario, and Quebec. The WCI observers are Alaska, Colorado, Idaho, Kansas, Nevada, Wyoming, the province of Saskatchewan and the Mexican states of Baja California, Chihuahua, Coahuila, Nuevo Leon, Sonora and Tamaulipas.

If ARB is to link with the WCI program, it is important that all considerations and requirements of AB 32 are addressed, including “enforceability.” Therefore, staff has been participating in various WCI committees, such as market oversight, electricity, reporting, and offsets. GHG Enforcement staff, together with staff from other ARB Divisions, provided input into the various WCI committee work products. GHGES staff provided background enforcement information in support of the group’s effort to draft regulatory language pertaining to offsets and auctions in a Regional cap-and-trade program.

Staff contributed to the Intergovernmental Market Enforcement Group (IMEG) chaired by Matt Bogoshian of Cal/EPA. IMEG includes a handful of state agencies charged with anticipating and overcoming conflicts and issues relating to the enforcement of cap-and-trade as well as command and control rules developed for AB 32.

One unusual task addressed this year was the audit of a rural district. At the request of the Mendocino County Air Quality Management District’s new APCO, Enforcement Division staff conducted an evaluation of the District’s enforcement program. ED staff provided comments and conclusions pertinent to improving the district’s permitting and enforcement programs. This review was not a full ARB audit like those done by ARB’s Stationary Source Division. Rather, it was designed to meet very specific needs as defined by the District.

With an eye toward the future, GHGES staff attended the Greenhouse Gas Emissions Verifier Training courses in October, 2009. This training was designed to provide independent third party auditors of GHG emissions with the necessary skills and understanding to conduct independent verifications of GHG emissions as mandated by AB 32. ARB staff anticipates an oversight and spot checking role which will require an understanding of similar depth.

In the immediate future, this section’s responsibility will grow from primarily supporting rule development and enforceability, to direct enforcement. Dozens of regulations have been adopted or will be adopted in the coming months. Among these is the Cap and Trade program which will entail new enforcement techniques. Other regulations will involve oversight of third party regulators who will conduct the bulk of the field inspection work. In anticipation of these changes, GHGE staff has been working with rule development staff toward efficient solutions and designing the GHG enforcement program anticipated by AB 32.

### **TRAINING AND COMPLIANCE ASSISTANCE PROGRAM**



The continuous evolution of the environmental field, including advances in technology and the passage of new legislation to address greenhouse gases, diesel emissions, as well as the traditional criteria pollutants of concern presents a unique challenge to all professionals in the environmental community. These changes necessitate environmental professionals keep abreast of the most recent issues, all while juggling increasing workloads and shrinking budgets. While this is indeed a challenge for any organization in any field, it is especially unwieldy in the air quality field due to the mass media's intense focus on this environmental arena. The resulting increased public awareness of air quality issues requires that those professionals in this dynamic field remain as well trained and educated as possible.

Since its inception, ARB has been charged with overseeing the efforts of local air pollution control and air quality management districts in controlling air pollution caused by stationary sources. The traditional mission for the Compliance Training Section (CTS) has always been to train local air pollution control district's permitting and enforcement staff, state and federal personnel and the regulated industry. The mission of the Compliance Assistance Section (CAS) has been to provide a variety of technical, non-technical, and outreach publications to these same clients, as well as to provide Visible Emissions Evaluation certification and training services.

The recent implementation of regulations mitigating diesel particulate matter, air toxics and criteria pollutants, smog-forming and greenhouse gas (GHG) emissions, requires additional outreach and compliance training on part of CTS. Successful program implementation can only be achieved through active outreach to regulators and regulated industries through training and compliance assistance.

In the past, the demand from other divisions for outreach, training and video materials to implement new regulations was met on a case-by-case basis. The driving factor was primarily the lack of staff resources. CTS is currently updating our priorities to expand training and outreach efforts to incorporate these recently adopted and proposed regulations. This will enhance our existing curriculum and synchronize our goal with the goal of achieving emission reductions of diesel particulate matter, smog-forming and greenhouse gases.

CTS exists in order to provide comprehensive education to further the professional development of environmental specialists and engineers. The courses offered provide current, practical, and cost-effective information for both new and experienced environmental professionals working in California. The entry-level courses cover history of air pollution, laws & regulations, and enforcement aspects of air pollution. The advanced level courses cover the analysis of industrial processes, theory and application of emission controls and emissions evaluation procedures. Staff conducts and administers these courses throughout the State. As the California Air Resources Board is on the leading edge of air quality issues, the rest of the world looks to the ARB for leadership. To help fulfill this leadership role, Compliance Training staff offer similar training throughout the country and internationally.

Publications developed by the Compliance Assistance Section provide complementary resources for outreach and education of air compliance professionals. In addition to

reference manuals that supplement and expand the information in many of the training classes, the Compliance Assistance Program (CAP), a part of the CAS, develops and distributes a variety of practical, rule-specific publications and web-based information. This information is aimed at a diverse audience, from process operators to air quality specialists, from small businesses to the interested public.

CAP publications range from outreach flyers and pamphlets to increase awareness of new air quality regulations, to handbooks that assist regulated businesses in complying with these regulations, to the reference manuals that provide the comprehensive technical, regulatory, and inspection information to government and industry environmental professionals.

### **COMPLIANCE TRAINING**

In 2009, the Compliance Training Section (CTS) increased training offerings and took on additional duties within the Enforcement Division (ED). CTS increased the compliance training activities to a much higher level in order to meet the ever-increasing training requests from both the air districts and the regulated communities. CTS also took on various enforcement functions and outreach activities and expanded and revised the compliance training curriculum.

January 1, 2009  to December 31, 2009	Total Students Taught in CA	5,689
	Total Courses Taught in CA	170
	Total Students Taught in the National Program (outside CA)	1,636
	Total Courses Taught in the National Program (outside CA)	63
	Webcast Capable Courses	42
	Webcast Students	1,825
	Average Webcast Students per Course	44

This is an 18% increase in the number of courses taught over 2008 and a 23% increase in the number of student that took our training. See Appendix F, Table F-1.

CTS continues to provide high quality training while at the same time responding to the changing needs of California agencies and industries by ensuring that its instructors are continuously updated on the emerging issues in the air quality field, and keep up to date by attending training themselves. CTS provides a valuable service to ED, other divisions within

the ARB, Cal/EPA, and U.S. EPA. Continuous growth of the Compliance Training Program over the years reflects its value to this agency. ARB has received countless favorable comments for the excellent work performed by CTS staff. The CTS accomplishments continue to be used to meet Cal/EPA's program commitments.

In order to address training needs in the continuously changing air quality field, the Compliance Training Section continues to emphasize program development, the development of new courses, and continual updating of existing courses and programs. In fact, the success or failure of the program is dependent upon CTS staff's ability to update 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 has been able to provide valuable instruction for environmental professionals at all levels of experience.

The courses scheduled for the upcoming 2010 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, by providing compliance training and regulatory support to their staff.

#### 100 Series - Uniform Air Quality Training Program

The Uniform Air Quality Training Program (UAQTP) is a series of 14 courses providing an introduction to air pollution control and enforcement. The program is intended for new, entry-level stationary source inspectors, regulatory agency staff, and environmental specialists in business and government. Three 100 Series programs were conducted in California in 2009. Local air district staff, representatives from regulated industry, employees of municipalities and counties, and military personnel made up the bulk of the attendees of these trainings. These four-day sessions (each) were held in Diamond Bar, Sacramento, and Fresno, California. The high number of attendees at these training events again illustrates how important and well-received the UAQTP is.

Again, in response to the ever-evolving air quality field, CTS staff updated the 100 Series program to add discussion on the ARB's new diesel regulations, as well as the health effects of diesel particulate emissions. In addition, the regulatory process (rulemaking), as well as ozone formation and transport were added in order to increase the value of the UAQTP. Discussion of commonly used control devices has also been expanded considerably, in line with the recent major revisions to the 200 Series control devices course.

#### 200/300 Series Courses

The 200 and 300 Series courses are generally more focused than the 100 Series courses, and have a higher level of technical information. These courses are designed for the semi-experienced air quality professional that may have already been trained under one or more of the previous 100 Series courses. The 200 Series courses include field visits to regulated commercial and industrial sites in order to see first-hand the application of some of the

topics discussed in the classroom. These field trips afford the students the opportunity to interact with the regulated community and ask questions that are more detailed or extremely technical in nature. The 300 Series covers case development and workshops for variance/hearing board requirements. This dynamic program is designed for experienced environmental professionals from all levels of regulatory staff and industry.

The 200/300 Series trainers experienced a highly productive year in 2009. Output was up, and course quality was continuously improved as the staff upgraded and updated lesson plans to reflect the new areas of focus in the air quality field. These improvements have been reflected in the overwhelmingly positive student course evaluations and management feedback.

The following 200/300 Series courses were either added or reworked in 2009 to reflect new regulatory requirements:

- Web Cast Courses
- Coatings: Auto, Metal Parts and Products (formerly three separate classes)
- Basic Inspector Academy Online Training
- Aggregate, HMA and Concrete Operations (formerly three separate classes)
- In-Station Diagnostics
- Above Ground Storage Tanks
- Stationary Gas Turbines & Power Plants & Industrial Boilers
- Compliance Assurance Monitoring (CAM)
- Theory and Operation of Common Control Devices (formerly Introduction to Control Devices)
- New Source Review (NSR) & Title V
- CAPCOA Permitting Staff Development Workshop
- Landfills

### 500 Series

The recent adoption and implementation of regulations mitigating diesel particulate matter, as part of the Diesel Risk Reduction Plan, requires outreach and compliance training on part of CTS. Successful program implementation can only be achieved through extensive outreach to regulators and regulated industries through training and compliance assistance.

Beginning in 2009, CTS management made a bold move to segregate all of the mobile source related training and created a new series of trainings. Some previously designated 200 level courses were repurposed because of the mobile source content and folded into

the 500 Series. Moreover, several new courses were created to reflect the direction ARB has taken to control diesel emissions.

The list below represents all the courses included in the new 500 Series:

<u>Course #501</u>	Stationary Diesel Engine ATCM
<u>Course #502</u>	Portable Equipment ATCM
<u>Course #504</u>	In-Use Off-Road Diesel Regulations
<u>Course #505*</u>	Mobile Sources Emission and Control
<u>Course #506*</u>	Carl Moyer Incentive and Prop 1B and Funding
<u>Course #507</u>	Transport Refrigeration Units
<u>Course #508*</u>	Marine Sources and Goods Movement
<u>Course #509</u>	Climate Change Policy Issues, Opportunities and Needs
<u>Course #510</u>	Diesel Idling Compliance and Enforcement
<u>Course #511</u>	Diesel Exhaust After-treatment Devices
<u>Course #512</u>	Diesel Vehicle Regulation Overview

The 500 Series course listed above with an (\*) were not made available in 2009. We are currently working with upper management and stakeholders to assess a priority for these classes. Those that were offered were very well received and in fact, many training sessions pushed the limits of room size and available webcasting technology. As implementation of new rules controlling diesel emissions, more classes will be added to accommodate the information demand.

Due to the nature of the materials in many of the 500 Series courses, CTS has been working with other, more regulatory centric, divisions within ARB to provide the best, most up to date information possible. This cooperative effort has produced better course materials, better instruction and an overall better product for our constituents.

Examples of regulations that we are currently conducting training and outreach for are as follows:

**500 Series offerings for 2009**

<b><u>Course #</u></b>	<b><u>Title</u></b>	<b><u>Participants</u></b>
501	Stationary Diesel ATCM	106
502	Portable Equipment ATCM	187
504	In-Use Off-Road	397

507	Transportation Refrigeration Units	93
510	Diesel Idling Enforcement	134
511	Diesel Exhaust After-treatment Devices	165
512	Diesel Vehicle Regulation Overview	381
<b>Total</b>		<b>1,463</b>

Of particular note, courses 511 and 512 were dramatic success stories in 2009. Both classes were created with cooperation from staff and management of the Mobile Source Control Division (MSCD).

Course 511 details the workings of the latest particulate control devices that are now standard equipment on diesel powered vehicles with GVWR of greater than 14,000 lbs. A series of “Dry Runs” held in conjunction with MSCD vetted the presentation and subsequent training sessions proved to be immensely popular. In fact, several of the classes held in late 2009 had to be capped because the venues could not accommodate all who were interested. One particular Sacramento class had over 25 participants in the class with over 100 viewing via webcasting.

With regards to the 512 course, weekly curriculum meetings held from June through August of 2009 included staff and management from MSCD, Stationary Source Division (SSD) and Enforcement Division (ED) produced the eight section training. Each section provides an overview of ARB programs dealing with diesel regulations. The course covers enforcement activities, ARB’s engine and retrofit verification/certification process, the In-Use On Road Diesel Regulation, the Green House Gas Regulation for diesel trucks, the Transport Refrigeration Unit regulation, the Drayage Truck regulation, the In-Use Off Road Diesel Regulation and a primer on funding opportunities for owners of diesel equipment trying to comply with the various equipment requirements of the new regulations.

ED staff had to become subject matter experts on each of the regulations in course 512 and held 17 sessions of the course throughout California from September through December 2009 providing outreach to nearly 500 participants. Both of these courses demonstrate a cooperative effort between Compliance Training (ED) and multiple ARB divisions to provide more comprehensive instruction and outreach to the regulated community.

As a consequence of the success all the 500 Series courses and the feedback from attendees, Compliance Training is now moving to transform our training and outreach programs to provide focused, shorter training sessions to be held in the evening and on Saturdays. Under the guidance of the Executive Office and the Office of the Ombudsman, we are currently working to provide enhanced outreach and compliance assistance with these regulations. This will allow more of the affected regulated public to attend and get critical compliance centered information during non-business hours. We anticipate high demand for the information and look forward to an outstanding 2010. See Appendix F,

Table F-2, for class totals.

*Fundamental Inspector Course Online Training*

The six-hour online Fundamental Inspector Course (FIC) was developed as a prerequisite to the 4-day classroom portion of the Cal/EPA Basic Inspector Academy. The online portion includes the following topics: The Role of the Inspector, The Science of Environmental Pollution, Overview of Environmental Law, The Roles and Responsibilities of the Cal/EPA Agencies, and Inspector Health and Safety.

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

The remaining classroom portion of BIA focuses on such topics as Report Writing, Interviewing Skills, and Field Sampling. A number of interactive exercises were also featured; the most involved of these was a mock inspection exercise. The attendees wrote 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 were both instructive and entertaining.

In 2009, 422 students took the FIC online training.

*Cal/EPA Basic Inspector Academy*

The Cal/EPA Basic Inspector Academy (BIA) was created to address the requirement for Cal/EPA to develop a comprehensive training program that ensures unified training of environmental inspectors for coordinated compliance and enforcement actions of all boards, departments, offices, and other agencies that implement Cal/EPA's rules and regulations. The BIA consists of four days of practical skills in subject areas that include:

- Inspection Overview,
- Observation and Interview Skills,
- Documenting Violations,
- Report Writing,
- Evidence Collecting,
- Enforcement Actions,
- Testimony Skills, and
- Cal/EPA's Laws and Regulations.

In 2009, the Academy was offered eight times in locations throughout the state to a total of 226 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,
- Department of Conservation,
- Department of Fish and Game
- South Coast Air Quality Management District,
- The Rincon Band of Luiseno Indians,
- U. S. Military
- City and County Agencies,
- Local Fire Departments, and
- Private Inspection Consultant Groups.

National Program

On September 30, 2009, the National Air Compliance Training Delivery Project (NACTDP), with the assistance of the California Air Resources Board (CARB), completed its seventeenth successful year of nationwide environmental training (CARB 17). This date also marked the delivery of over 41,180 student-days of instruction since the project began in 1992. Principal funding support for the program comes from the United States Environmental Protection Agency (U.S. EPA) grants that are administered by the National Council on Aging (NCOA) and are coordinated, managed, and directed by the Training and Compliance Assistance Branch of the CARB.

The NACTDP consists of air pollution control training classes contained in three series. The 100 Series is a basic introductory group of 15 courses presented over a 4-day period. The 200 Series consists of 31 advanced classes. A set of three or four classes is given within a week and each class lasts for one day with the exception of "Petroleum Refining," which is a 2-day course. And the 300 Series contains classes of special interest to many air pollution professionals. This series includes Permit Practices and Procedures I & II, Principles of Environmental Compliance and Enforcement, and new in 2008-2009, Environmental Case Development and Resolution. Depending on the subject, these classes are two to three days in length and are presented in a lecture/workshop format.

Regional consortia sponsored most classes in CARB 17. These included the Northeast



States for Coordinated Air Use Management (NESCAUM), the Mid-Atlantic Regional Air Management Association (MARAMA), the Southeastern Local Air Pollution Control Agencies and the Southeastern States Air Resources Managers (Metro 4/SESARM), the Central States Air Resource Agencies (CenSARA), and the Western States Air Resources Council (WESTAR). State agencies and/or local agencies also sponsored several classes.

In 2009, CARB 17 brought classes to sites in 16 different states representing a total of 1,636 participants which equates to 3,226 total student days. Attendees at these classes represented agencies from 25 states, and from Canada. As in previous years, state employees formed the largest single group of attendees. Employees from local agencies comprised a much smaller component. Federal employees (primarily U.S. EPA and the Department of Defense) and non-government personnel usually formed only a small percentage of attendees in most classes.

The majority of attendees in most CARB 17 classes were field inspectors and compliance/enforcement personnel. The next largest group was comprised of engineers and permit writers. Rule/regulation writers, managers, supervisors, technicians, planners, or "other," made up the small remainder.

## **Highlights**

### **Web Casting**

The web-based training from TCAB was officially launched on July 29, 2008. This innovative idea in training enabled CARB to provide an effective distance training program with the latest technology, helping to reduce travel, which will mitigate air toxics and criteria and smog-forming pollutants and minimize our carbon footprint. The webcast training was created and developed as a unique, comprehensive, and interactive training system to meet the needs of our diverse students in these tough economic times.

In light of the fiscal constraints many of our constituents are currently facing, we have incorporated the traditional classroom setting, with a very successful and a unique blend of online training and webcasting. This comprehensive training program is available to the regulated community as well as environmental control personnel in the federal, state, and local agencies.

We have successfully evolved our program to add courses which integrate recently adopted regulations addressing criteria pollutants, air toxics, diesel particulate matter, and green house gasses. We have provided training nationwide, as well as reached global audiences via online and webcast sessions. The goal of these nationally recognized and award-winning training courses is to increase public awareness about the importance of clean and healthy air, achieve emission reductions, while bringing greater compliance rates within the regulated community. This approach greatly reduces the financial burden on agencies and stakeholders that are unable to get training on their own.

The unique benefits of the online and webcast sessions are as follows:

- **Travel time:** With online and webcast training, many productive working hours can be saved by eliminating travel. It is estimated that this training will eliminate a 1,000 pounds of CO<sub>2</sub> per webcast student per day greatly reducing our carbon footprint.
- **Travel expense:** With online and webcast training, travel expenses and per diem will be eliminated. Training will not to be hindered due to budget constraints.
- **Flexibility and access for trainers and students:** Both the trainers and the students can enjoy the flexibility of training in their own environment without traveling. The essential benefits of traditional classroom training will not be sacrificed because of the supplemental learning environment such as virtual field trips to permitted facilities. Trainers and students can still maintain instant communication for questions and answers by means of interactive chat rooms, emails, and instant messages during training with the help of a webcast facilitator. See Appendix F, Table F-3, for Web Casting student and class totals.

January 1, 2009 to December 31, 2009	Webcast Capable Courses	42
	Webcast Students	1,825

## **COMPLIANCE ASSISTANCE**

In general, businesses and other regulated entities make an effort to comply with air quality regulations 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 and certification.

Under the moniker of the Compliance Assistance Program or CAP, the CAS develops and publishes a variety of technical manuals, interactive materials on CD, self-inspection handbooks, and pamphlets for industry and government. To create these publications, CAS staff 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 manuals and 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 VEE program are the Fundamentals of Enforcement (FOE) training course and the VEE Certification program. FOE is a basic overview of air pollution and enforcement of air pollution regulations emphasizing evaluation of visible emissions. The classroom portion of the FOE course is a prerequisite to becoming VEE-certified in accordance with U.S. EPA Reference Method 9 (EPA Method 9).

VEE certification/recertification is conducted in the field for both new and returning students. Certification is valid for six months and is required for most district enforcement staff and many industry staff. VEE program staff schedule recertification sessions on a six-month rotation throughout the state during the year as either stand-alone sessions or in conjunction with FOE.

## **Highlights**

### **CAP Publications**

- The CAP library currently has 42 handbooks and pamphlets in print and/or on-line (including some in Spanish and Korean) and 18 technical manuals on CD.
- In 2009, the program distributed 9,100 copies of publications, which was a 52% decrease from the previous year. This decrease may be due to an increase in the number of people viewing handbooks online, which increased significantly over the

previous year. The distribution of publications was as follows: 3,725 Technical Manuals (including interactive and archival CDs) 3,796 Handbooks, and 1,579 Pamphlets. Most of the older manuals are still used for the National Training Program courses on a case-by-case basis and were factored into the year-end statistics for the CAP. The top five CDs and handbooks distributed and the top five website inquiries are shown in Appendix F, Tables F-4 and F-5. Rankings for hard copy distribution and for website inquiries were based on both California and national programs.

- Webpage views for CAP publications were up nearly 60% from 2008. The 215,429 views were distributed as follows: 59,148 on Technical Manuals, 145,076 on Handbooks, and 11,205 on Pamphlets. The number of webpage views is not a precise number, because a certain percentage of web views are from “robot” search engines.)

#### New and Revised Publications

In 2009, CAP staff:

- Completed three outreach publications for the Mobile Source Control Division. Staff designed a new poster for MSCD to help inform fleets of the off-road diesel regulation. Staff also designed a set of three pamphlets to inform fleet owners of free statewide training sessions on the regulations and to assist them with their compliance efforts. A door hanger in English and Spanish was also created to be placed on equipment informing owners of the new off- road diesel regulations.
- Completed a revised Interactive CD on Gasoline Dispensing Facility Enhanced Vapor Recovery (EVR) to reflect the new EVR requirements. The CD contains information on the new EVR requirements, how the vapor recovery systems work, how these systems are certified, how to inspect these facilities, and how these facilities are tested.
- Completed an Interactive CD on Dry Cleaning Operations to help inspectors at air pollution control districts and air quality management districts enforce perchloroethylene regulations and to provide information on the 2007, ARB amendment to the 1993 Dry Cleaning Air Toxic Control Measure.
- Published a booklet on In-Station Diagnostics Vapor Recovery Monitoring Systems as a hard copy and in electronic format. The booklet was developed to help gasoline station managers operate the new ISD equipment mandated under the EVR gas station regulations. The booklet provides information on what ISD is, how to use the systems, and how to understand the warnings and reports generated to alert personnel of any vapor leakage or equipment failures.
- Completed a pamphlet to assist hardwood, plywood, particleboard, and medium-density fiberboard manufacturers with their compliance efforts. This pamphlet will be translated into various languages to help with program implementation.
- Revised the Training and Compliance Assistance Program Pamphlet to provide new information on CAP courses and publications and to include updated photographs.

### *Air Academy Certification Program*

The CAS took the lead role in completing and launching the “Air Academy Certification Program” for new employees. This 2-part program included the Air Academy Online Training (AAOT) followed by a face-to-face session with Executive Staff for interested students. The original goal of AAOT was to provide new ARB employees with a basic understanding of air pollution control prior to attending the face-to-face session. After reviewing the program management considered the AAOT such a valuable resource that they directed it to be available to the public as well as to all ARB staff. AAOT uses interactive videos, pictures, diagrams, and games to help explain complex concepts. Concepts in the training include health effects of air pollution, the science of air pollution control, air quality management structure in California, and control strategies for criteria pollutants, toxic air contaminants, and greenhouse gases. Students can view the online training at their own pace and schedule. Quizzes are used to assess how well a student has grasped the information in each module and must be passed before the student can play the final game. 203 people completed the AAOT in 2009.

The in-person session provided some valuable “face time” with Chairwoman Mary Nichols, Executive Officer James Goldstene, and division chiefs from all parts of the agency. The 115 staff who attended (El Monte staff participated via webcast) posed a variety of questions and were treated to a lively exchange of ideas and information by upper management.

### *Support of Sections*

CAS staff assisted in developing and distributing the 2009 Training and Compliance Assistance Survey to all of the local air quality agencies in California and any attendees of CTS courses. The results of this survey were used to plan the 2010 training schedule and to prioritize publications activities for 2010. CAS staff also assisted the CTS with maintenance of the website and course schedule.

### *Fundamentals of Enforcement Program*

CAS staff taught eight Fundamentals of Enforcement Courses (Course #100) to 259 government agency and private sector personnel.

### *VEE Certification Program*

32 VEE day and 12 night certification/recertification sessions (Courses #100.1 and #100.2) were completed in 2009. Out of 2,162 participants, 1,355 successfully certified or recertified in 2009, a pass rate of 63%.

### *Outreach Events*

- Staffed a booth at Hazmacon-2009 and provided CDs, handbooks, and pamphlets to attendees. The Hazmacon conference is an environmental exposition, tradeshow, and conference dealing with sustainable business practices, hazardous materials, hazardous waste, water quality, and environmental compliance.

- Staffed a booth at the Sacramento Sustainable Business Awards Ceremony and Exposition at the Sacramento Municipal Utility District headquarters. This annual event honors the accomplishments of local environmentally conscious businesses whose practices demonstrate an outstanding commitment to enhancing sustainability and also featured a trade show.

### **Summary**

CTS continue to provide quality training while responding to ever-changing compliance training needs. In addition, CTS supports ED in many ways other than training, by completing a variety of assignments in a fast and efficient manner.

This training, coupled with CAP publications, ensures that environmental compliance professionals in government and business are better equipped to perform routine self-inspections to improve compliance, and enforcement personnel can more effectively plan and conduct inspections.

### **ENFORCEMENT DIVISION ACTION ITEMS FOR 2010**

#### **General Enforcement:**

- Continue working with other federal, state and local agencies and environmental justice community groups to improve air quality in the areas of California most affected by air pollution.
- Conduct Environmental Justice Strike Force operations in selected communities in support of ARB's Environmental Justice Action Plan.
- Add a portal to the ARB's website for Environmental Justice information. The information available will include inspection and enforcement activity and results from EJ areas. Additionally, health reports and assessments will be linked for easy access.
- Improve and enhance the external and internal ARB Enforcement Program sites (<http://www.arb.ca.gov/enf/enf.htm>) and (<http://inside.arb.ca.gov/wg/ed/ed.htm>).
- Prevent the sale of illegal products (e.g. consumer products, engines and vehicles) through mail order and internet venues such as eBay and individual internet retailers.
- Implement the new case tracking databases and upgrade current enforcement program databases for better functionality and efficiency.
- 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.
- 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.
- Strengthen cooperative bonds between ARB, air districts, and U.S. EPA.
- Ensure that all enforcement actions are timely, effective, and appropriate to the severity of the situation.
- Ensure that any repeated or similar non-compliance activity by a source results in increased enforcement consequences.
- Ensure that all industry-related enforcement operations are conducted in a responsible manner, resulting in a level playing field.
- Seek out training and development opportunities for staff.
- Improve compliance in the import market, and refer cases of noncompliance for prosecution.
- Continue working with Customs to increase coordinated enforcement efforts against illegally imported vehicles and engines.
- Continue exchanging information with U.S. EPA regarding shared enforcement actions and violators. This helps both agencies use their resources to the fullest and achieve the best success in enforcement and compliance.

**Mobile Source Enforcement:**

- Aggressively enforce ARB's Off-Highway Recreational Vehicle regulations.
- Aggressively enforce ARB's Large Spark-Ignition Engine and Small Off-road Engine regulations.
- Enforce ARB's Marine Pleasure Craft regulations.
- Consistently enforce the 49-state vehicle program.
- Expand enforcement against illegal motorcycles, including on-road and off-road motorcycles and the illegal aftermarket parts used to modify these vehicles.
- Focus on import market for illegal vehicles and engines (scooters, pocket bikes, OHRVs, etc.) working with U.S. EPA and federal, state and local prosecutors.
- Continue to enforce, with local law enforcement and CHP, a taxi cab tampering enforcement program at major California airports (LA World, San Francisco, San Jose, Oakland, and Sacramento Airports).
- Revisit high-concentration used-car-dealer areas to ensure vehicles offered for sale have all of the required emissions control systems.

- Work with CADMV, CHP, and local law enforcement agencies to improve compliance with ARB's vehicular regulations (49-state vehicles, gray market vehicles, off-road motorcycles, gas-powered scooters, pocket bikes, street racers, etc.).
- Enforce aftermarket parts regulations and conduct peace officer training to discourage emission control system tampering and street racing.
- Work with the Mobile Source Operations Division and Mobile Source Control Division to enforce new regulations for after-market On-Board Diagnostics II (OBD) catalysts, and continue OBD I and II catalyst enforcement at exhaust/muffler shops statewide.

**Heavy-Duty Diesel Vehicle Enforcement:**

- Continue implementing the provisions of AB 233: work with Cal Trans and local cities to have "No-Diesel Idling" signs placed on state, city and county property; train local law enforcement agencies so they can cite idling diesel trucks.
- Inspect points of distribution and retail outlets for illegal engines and vehicles.
- Increase enforcement audits of heavy-duty diesel vehicle and equipment fleets and refer cases for litigation or settlement where violations are found.
- Participate in multi-media inspection operations in mixed-use (industrial/residential) neighborhoods for the Environmental Justice Program.
- Participate in Environmental Collaborative Task Forces throughout the state in support of the Environmental Justice Program.
- Develop a new Heavy-Duty Vehicle Inspection database.
- Continue Off-road HDDV program implementation and enforcement.
- Continue implementing the Comprehensive On-road Statewide Truck and Bus program.
- Continue to expand the scope of the CCDET program.
- Implement enforcement of the Smartway program.
- Improve environmental air quality at the California-Mexico 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.
- Remove vehicles from service for repeat offenders of the HDVIP, as provided in statute under the Vehicle Code section 27159.
- Collect delinquent citations from HDVIP.
- Deter fraud in the Carl Moyer and Proposition 1B Programs.



- Enforce the School Bus Idling regulations and train school district bus drivers on program compliance.
- Implement and enforce the TRU regulatory program, and enforce these regulations.
- Enforce regulations controlling diesel particulate emissions from on-road heavy-duty solid waste collection vehicles.
- Enforce the Heavy-Duty Diesel Commercial Vehicle Idling program.
- Enforce the cargo-handling equipment rule at ports and intermodal facilities.
- Continue enforcement of the public and utility diesel vehicle fleet regulations.
- Work with the regulatory divisions on the port truck, private on-road truck fleet and off-road diesel vehicle regulations, and continue to implement these programs.

**Fuels Enforcement:**

- Enforce motor vehicle fuels regulations by conducting frequent inspections of refineries, import facilities, distribution and storage facilities, service stations, and bulk purchaser/consumer facilities.
- Enforce the Cargo Tank Vapor Recovery regulations by certifying and conducting inspections on cargo tank systems.
- Investigate further into existing violations to resolve cases of motor vehicle fuels regulations and cargo tank regulations.
- For upcoming cases which include potential criminal violations, develop cases for referral for criminal prosecution.
- Conduct inspections of on-road vehicles on behalf of BOE to detect the illegal use of red-dyed diesel.
- Enforce diesel fuel regulations by conducting ongoing audits of small refiners.
- Enforce ethanol blend rate and additives regulations in gasoline by conducting ongoing audits of gasoline terminals.
- Work with SSD to improve the enforceability of motor vehicle fuels regulations.

**Consumer Products Enforcement:**

- The Consumer Products Enforcement Section is evaluating data mining techniques and product tracking mechanisms in order to identify clusters and distribution patterns of non-compliant products to improve staff efficiencies and focus limited investigative resources on products and distributors that are more likely to be non-compliant with California regulations.

- Pursue investigation in cases involving non-complying imported and diverted products. The importation cases often involve multiple products from a distributor in particular regulated categories, providing staff with the opportunity to pursue individual product investigations in groups.
- Ensure that categories of products subject to new regulatory limits, including consumer products, indoor air cleaners, or fuel containers / tanks offered for sale are compliant with the standards or are certified for sale in California.
- Continue to work with regulatory development staff and industry stakeholders to ensure that new regulations and amendments proposed for 2010 are enforceable.

**Stationary Source Enforcement:**

- Assist non-grantee districts in reviewing and logging data in U.S. EPA's Air Facility System.
- Enforce HSC requirements for issuing variances.
- Aggressively resolve complaints through investigation and referral.

**Strategic Environmental Investigation and Enforcement:**

- Expand Ocean-Going Vessel, Harbor Craft, Cargo Handling Equipment, Transport Refrigeration Unit, and other Goods Movement enforcement programs.
- Expand the program to enforce the ATCM to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, thin medium density fiberboard, and finished goods made with composite wood products.
- Enhance surveillance capabilities by acquiring more equipment and training to allow greater independence for the agencies being assisted.
- Enforce the Asbestos NESHAP.
- Conduct Asbestos NESHAP Task Force Meetings to pursue uniform enforcement.

**Greenhouse Gas Enforcement:**

- Participate in the following Western Climate Initiative Committees: Compliance Verification and Enforcement, Reporting, Offsets, and Electricity.
- Participate in the International Offsets Group.
- Develop enforcement and auditing procedures for the new Mandatory Reporting and Fee Regulation Programs.
- Begin strategic planning for influx of regulations beginning in 2010.

- Begin designing an effective enforcement program for a cap-and-trade system. This will involve working with Cal/EPA, ARB OLA, Planning and Technical Support Division, the Office of Climate Change and other agencies and divisions.

**Training and Compliance Assistance:**

- Create an Air Pollution Control Devices CD by consolidating and updating several older air pollution control device technical manuals.
- Update Stationary Reciprocating Engines CD to include new control technologies and ATCMs.
- Update Automotive Refinishing Handbook.
- Update Automotive Refinishing CD.
- Update Continuous Emissions Monitors CD.
- Create Permitting Basics Handbook/Job Aid.
- Update Vapor Recovery Job Aid.
- Post Interactive CDs for web accessibility.
- Act as contract manager/writer/editor/LMS liaison for creation of on-line component of Uniform Air Quality Training Program.
- Continue collaboration with Training Section and MSCD on production of diesel retrofit video.
- Update Heavy-Duty Diesel Enforcement Program pamphlets to incorporate new information.
- Team teach Course #511 Diesel Particulate Filters with CTS staff.
- Assist Heavy-Duty Diesel Enforcement Program by providing staff to attend outreach events as appropriate.
- Assist other divisions with outreach by developing and formatting pamphlets or related materials for their new programs.
- Conduct five scheduled FOE courses.
- Conduct at least 28 day and 6 night VEE certification sessions.
- Deploy field scanners to streamline registration of VEE certification session attendees.
- Prepare the foundation for implementation of Uniform Air Quality Training Program (UAQTP) on-line similar to the Air Academy On-line program.

- Enhance the delivery of Web Cast courses by adding mock inspection videos for web cast students.
- Introduce In-Station Diagnostics (ISD) & Above Ground Storage Tanks classes by incorporating Enhanced Vapor Recovery (EVR) regulatory requirements and adding hands-on field inspections by connecting to ISD consoles and downloading reports.
- Prepare guidance videos for inspectors for connecting to In-Station Diagnostics (ISD) consoles.
- Prepare enhanced outreach for small businesses to comply with EVR requirements for both aboveground and underground storage tank regulation.
- Prepare enhanced outreach for small businesses, municipalities and fleet operators for Above Ground Storage Tanks to comply with Enhanced Vapor Recovery (EVR) deadlines.
- Introduce new Gasoline Dispensing Facility self inspection class based on established South Coast Air Quality Management District (SCAQMD) program.
- Produce mock inspection videos for web cast students for courses “Industrial Boilers” and “Gas Turbines & Power Plants”.
- Prepare enhanced guidance for regulatory compliance professionals regarding New Source Review (NSR) & Title V (Federally Enforceable Operating Permits).
- Modify Portable Equipment ATCM & Diesel Exhaust After-treatment Devices classes based on revisions to regulatory requirements.
- Introduce new compliance outreach class to address the Drayage Truck regulation.
- Provide enhanced outreach for small businesses and sector communities (with a focus on compliance assistance and funding opportunities) to comply with various requirements of Diesel Vehicle regulations.
- Prepare the foundation for outreach for adopted early action measures related greenhouse gas regulations.

**Appendix A****Table A-1****2009 Enforcement Program Closed Cases**

<b>Program<sup>1</sup></b>	<b>Cases/Citations Closed</b>	<b>Penalties<sup>2</sup></b>
Mobile Sources	3,928	\$13,345,673 <sup>3</sup>
Fuels	37	\$1,232,500
Consumer Products	45	\$1,687,660
Portable Fuel Containers	9	\$63,750
Cargo Tanks	26	\$12,750
Stationary Source/Other	1	\$35,625
Railroad MOU	8	\$3,200
<b>Total Cases</b>	<b>4,054</b>	<b>\$16,381,158</b>

<sup>1</sup> In negotiation settlements, the Enforcement Division is often represented by ARB OLA.

<sup>2</sup> Includes supplemental environmental projects, early compliance costs, etc.

<sup>3</sup> The Nissan case which is included in this number was worked on by MSCD and OLA.

**Table A-2****2009 Case Dispositions**

<b>Category</b>	<b># Cases</b>	<b>Penalties</b>
Civil Cases Pending <sup>1</sup>	39	---
Civil Cases Closed <sup>2</sup>	13	\$1,648,000
Criminal Cases Pending <sup>3</sup>	1	---
Criminal Cases Closed	0	---
Administrative Cases Closed	4,041	\$14,733,158
<b>Total Cases Closed</b>	<b>4,054</b>	<b>\$16,381,158</b>

<sup>1</sup> Pending civil cases: 39 cases were pending litigation or settlement with the attorney general or various district and city attorneys statewide.

<sup>2</sup> Closed civil cases: See Table A-3 on next page.

<sup>3</sup> One criminal MSEB case is pending prosecution with the San Bernardino District Attorney.

**Key:**

**Civil or Criminal Cases** are cases that are referred to the Attorney General's Office, local District Attorney or City Attorney's 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, the Mutual Settlement Program, or through an administrative hearing in front of an ARB Administrative Law Judge (this applies to Heavy-Duty Vehicle Inspection Program cases only), or, through an administrative hearing in coe a State Office of Administrative Hearings Administrative Law Judge.

**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.)

## 2009 ARB Report of Enforcement Activities

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

**Table A-3**  
**2009 Civil Cases Closed**

<b>Case Name</b>	<b>Prosecuting Agency</b>	<b>Date Closed</b>	<b>Settlement Amount</b>
Moto Forza	Attorney General	April 2009	\$90,000
G P Motorcycles	Attorney General	April 2009	\$90,000
Viva Motors	Attorney General	June 2009	\$268,000
Target (8 cases)*	Attorney General	Oct 2009	\$500,000
Anaheim Trucking	Attorney General	July 2009**	\$200,000
Key Disposal	Attorney General	October 2009	\$500,000
<b>Total Cases: 13</b>		<b>2009</b>	<b>\$1,648,000</b>

\* Target includes 4 CP, 3 PFC, and 1 SORE cases.

\*\* This case has been re-opened due to default on payments.

**Table A-4**  
**2009 Supplemental Environmental Projects**

<b>SEP</b>	<b>Number of Cases</b>	<b>Amount</b>
CCDET/Peralta Community College District <sup>1</sup>	160	\$396,475
California Pollution Control Financing Authority <sup>2</sup>	110	\$122,709
Environmental Education Initiative <sup>3</sup>	1	\$1,200,000
National OBD Clearinghouse <sup>4</sup>	1	\$200,000
<b>Total</b>	<b>272</b>	<b>\$1,919,184</b>

<sup>1</sup> CCDET was created to train diesel fleet mechanics on the proper conduct of ARB's HDVIP SAE J1667 test protocol and HDVIP/PSIP program record keeping requirements. The Peralta Community College District administers the program and distributes the SEP monies in equal shares to participating CCDET community colleges.

<sup>2</sup> Program's mission is to encourage banks and other financial institutions to make loans to small businesses that fall just outside of most banks' conventional underwriting standards. These loans are for purchasing equipment to comply with ARB's diesel regulatory programs.

<sup>3</sup> EEI is a Cal/EPA effort to lead the nation in environmental literacy. The curriculum is a national model designed to help prepare today's students to become future scientists, economists, and green technology leaders.

<sup>4</sup> The Center for Automotive Science & Technology at Weber State University has established the National OBD Clearinghouse through a US Environmental Protection Agency (EPA) grant, to facilitate better understanding of On-Board Diagnostics (OBD) technology. The clearinghouse facilitates communications, resolves issues and conveys accurate and timely OBD information between public officials and the automotive industry.

***Appendix B***

**SIGNIFICANT CASE SETTLEMENTS**

In most enforcement actions, ARB is able to reach mutual settlement agreements with air quality violators. These settlements generally include a monetary penalty, a corrective action, and in some cases, funds for a SEP that provides additional emission reduction incentive programs, public education projects, etc.

Apart from funds earmarked for SEPs, all penalties submitted to ARB are deposited into the Air Pollution Control Fund (APCF), 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 for \$10,000 or more in 2009, including mobile sources, consumer products, fuels, and stationary sources cases. See the complete list of cases settled during 2009 at <http://www.arb.ca.gov/enf/casesett/casesett2009.htm>.

**MOBILE SOURCE CASES**

**ANAHEIM TRUCKING – \$200,000 Settlement**

An investigation by the ARB showed that Anaheim Trucking failed to comply with the Periodic Smoke Inspection Program (PSIP) and the Solid Waste Collection Vehicle (SWCV) rule. After the case was referred to the Office of the California Attorney General (AG) for prosecution and the trial was scheduled, Anaheim Trucking agreed to the \$200,000 penalty and to the injunction to comply with the PSIP and the SWCV rule. This Judgment was entered into the Superior Court of California, County of Orange on July 7, 2009. Anaheim Trucking agreed to pay \$85,000, \$68,000 to the California Air Pollution Control Fund, \$8,500 to the Peralta Community College District and \$8,500 to the California Pollution Control Financing Authority, and the balance of the fine will be stayed, pending no further violations.

However, in September 2009, Anaheim Trucking's first payment check was returned because of insufficient funds, and Anaheim Trucking did not resubmit the payment and did not make the subsequent payments. Therefore the case has been referred to the AG's office for the second time to file a motion that the defendant violated the payment conditions of the judgment entered pursuant to stipulation and order in the Superior Court of California, County of Orange.

**ANTELOPE VALLEY TRANSIT AUTHORITY - \$17,500 Settlement**

In January 2009, Antelope Valley Transit Authority (AVTA) agreed to pay \$17,500 in penalties; \$13,125 to the California Air Pollution Fund, \$2,187 to the Peralta Community College District, and \$2,187 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that AVTA failed to

properly self-inspect their diesel truck to assure it met state smoke emission standards and also failed to meet the Fleet Rule for Transit Agencies-Transit Fleet Vehicle Requirements (TFV), 13 CCR Section 2023.2 (b) (1) for PM reductions. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI) and the TFV. To settle the case, AVTA agreed to the \$17,500 penalty and to comply with the PSI, TFV, and other ARB programs.

**APL EAGLE MARINE SERVICES – \$35,625 Settlement**

In September 2009, APL Eagle Marine Services paid \$35,625 penalties, \$26,719 to the California Air Pollution Control Fund, \$4,453 to the Peralta Community College District and \$4,453 to the California Pollution Control Financing Authority, for violating air quality regulations.

An investigation by the ARB showed that APL Eagle Marine Services failed to comply with the reporting requirements of the Regulation for Mobile Cargo Handling Equipment (CHE). To settle the case, APL Eagle Marine Services agreed to the \$35,625 penalty and to comply with the CHE rule.

**ARAKELIAN ENTERPRISES dba ATHENS DISPOSAL COMPANY – \$270,000 Settlement**

In September 2009, Athens Disposal Company paid \$270,000 in penalties for violating air quality regulations: \$202,500 went to the California Air Pollution Control Fund, \$33,750 to the Peralta Community College District and \$33,750 to the California Pollution Control Financing Authority.

An investigation by the ARB showed that Athens Disposal Company failed to comply with the Periodic Smoke Inspection Program (PSIP) and the Solid Waste Collection Vehicle (SWCV) rule. To settle the case, Athens Disposal Company agreed to the \$270,000 penalty and to comply with the PSIP, the SWCV rule and other ARB programs.

**AUTO ZONE INC. - \$90,000 Settlement**

In March 2009, the ARB reached a settlement with AutoZone Inc. (AutoZone) that included a \$90,000 to the California Air Pollution Fund for selling and offering for sale aftermarket catalytic converters without an ARB Executive Order.

An investigation by the ARB showed that AutoZone sold catalytic converters that were no longer legal for sale in California due to new ARB aftermarket catalyst regulations that became effective January 1, 2009. As part of an industry wide investigation, the ARB documented the sales of these illegal catalytic converters by AutoZone stores throughout California. To settle the case, AutoZone agreed to the \$90,000 penalty and to comply with the Aftermarket Catalytic Converter Regulation and other ARB programs.

**BAR NONE ENTERPRISES - \$11,328 Settlement**

During an ongoing investigation into the sale and use of non-California certified on-road motorcycles, staff of the Mobile Source Enforcement Section discovered that Bar None



Enterprises, dba Bar None Auction, located in Sacramento, California, offered for sale and sold to California residents illegal non-California- certified Ricardo on-road scooters. This is a violation of HSC Sections 43150 through 43153. Bar None Auction paid into the Air Pollution Control Fund \$11,328 in January 2009 to settle these violations.

**BOURGET'S BIKE WORKS - \$93,639 Settlement**

The Mobile Source Enforcement Section in conjunction with the California Attorney General's Office has received a Notice of Entry Judgment against Bourget's Bike Works located in Phoenix, Arizona. The Judgment orders defendants Bourget's Bike Works, Brigitte Bourget, and Joseph R. Bourget to pay civil penalties of \$75,000 for violations of Health and Safety Code Section 43150 et seq. It also orders them to pay civil penalties of \$2,850 for violations of Health and Safety Code Sections 43017 and to pay investigative costs of \$1,530 and attorney's fees of \$14,259.

Bourget's Bike Works had been issued an Executive Order by ARB so that they could sell their motorcycles in California. During a routine inspection at all of their dealers located in California, it was found that some of the models that were being offered for sale were missing some or all of the emissions control equipment. The missing emission controls were all part of the evaporative control system that is required for all on-road motorcycles certified and sold in California. It was also found that model years 2004, 2005 and 2006 all had the wrong emissions control labels installed.

As part of the corrective action, each motorcycle was returned to its certified configuration. Bourget's Bike Works, Brigitte Bourget, and Joseph R. Bourget were immediately enjoined and restrained from violating Health and Safety Code Section 43150 et seq. for a period of five years.

**BRITZ-SIMPLIT GROWER - \$16,500 Settlement**

In March 2009, Britz-Simplot Grower Solutions (Britz-Simplot) agreed to pay \$16,500 in penalties; \$12,375 to the California Air Pollution Fund, \$2,063 to the Peralta Community College District, and \$2,063 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Britz-Simplot failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Britz-Simplot agreed to the \$16,500 penalty and to comply with the PSI and other ARB programs.

**BURRTEC - \$307,200 Settlement**

The California Air Resources Board fined Burrtec Waste Industries, Inc. \$307,200 in November 2009, for emissions violations during 2005 and 2006. An ARB investigation showed Burrtec Waste Industries, Inc. located in Fontana, Calif., failed to properly inspect their diesel vehicles. The company also failed to comply with the solid waste collection vehicle rule by neglecting to retrofit some of their diesel vehicles with the required emission-reduction devices. Burrtec Waste Industries, Inc. paid \$307,200 in penalties: \$230,400 went to the California Air Pollution Control Fund for projects and research to improve California's air quality. The Peralta Community College District received \$76,800 to

fund emissions education classes at California community colleges throughout the state.

**CABLECOM - \$19,800 Settlement**

The California Air Resources Board last week fined Washington-based Cablecom \$19,800 for failing to inspect their diesel trucks for compliance with the state's smoke emissions standards. Of the \$19,800 penalty, \$14,850 was paid to the California Air Pollution Fund, and \$4,950 was paid to the Peralta Community College District, for violating air quality regulations.

ARB investigators found that the telecommunications contractor failed to conduct diesel truck smoke tests in 2007, as required by state law.

**CHRYSLER CORPORATION - \$24,000 Settlement**

The Mobile Source Enforcement Section (MSES) opened this case against Chrysler Corporation for directly shipping six (6) federally certified vehicles to California dealers. This case was generated by a complaint from a vehicle owner who was sold a federally certified Chrysler Avenger by a San Diego dealer that Chrysler wanted back. The vehicle owner was feeling harassed by a private Texas company hired by the dealer to get the vehicle owner to sell the Avenger back to the dealer so he filed a complaint.

MSES staff inspected the San Diego dealership and obtained sales invoices for four (4) federally certified Avengers Chrysler shipped directly to them. After researching these 4 vehicles a total of 6 new vehicles with federal emissions shipped directly to California dealers were found. The manufacturer is supposed to have safeguards in place to prevent this type of thing. Chrysler explained it was a computer glitch that caused this.

Chrysler provided proof all 6 vehicles were removed from California and a settlement amount of \$24,000 (\$4,000 per vehicle) was received on February 25, 2009.

**CHRYSLER GROUP LLC - \$37,000 Settlement**

An Investigation by the Air Resources (ARB) Mobile Source Enforcement Section (MSES) found that Chrysler failed to comply with ARB's new regulations for after market catalytic converters that took affect January 1, 2009. The new regulation requires that all catalytic converters advertised, sold, offered for sale or installed in California must meet On-Board Diagnostic II (OBDII) requirements and must be certified by ARB.

Chrysler offers a line of converters called "Valueline" that are less expensive than the original equipment converters. These converters that are manufactured for Chrysler were not certified by ARB for use or sale in California. Chrysler distributed a total of eighty two (82) of these converters to their dealers throughout California. Seventy four (74) converters were sold and installed on vehicles registered to residents of California.

When Chrysler was informed of this problem they fully cooperated with ARB in its investigation and set up a number of actions to correct for any future problems. Chrysler instituted several internal mechanisms to prevent the sale of non-California certified catalytic converters in California. They recalled and removed eight (8) of the converters that

were still being offered for sale at their dealers and they set up a program to recall and replace all of the converters that were sold and installed on vehicles in California.

This case was settled in September 2009 and Chrysler Group LLC has paid \$37,000 in penalties to the California Air Pollution Control, for violations of California Health and Safety Code section 436344(a) and Title 13. California Code of Regulations (CCR) section 2222(h) (3)

**CITY OF FRESNO - \$49,250 Settlement**

In July 2009, the City of Fresno, agreed to pay \$49,250 in penalties; \$36,937 to the California Air Pollution Fund, \$6,156 to the Peralta Community College District, and \$6,156 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that the City of Fresno failed to properly self-inspect their diesel vehicles to assure the vehicles met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, the City of Fresno agreed to the \$49,250 penalty and to comply with the PSI and other ARB programs. The City of Fresno also directed up to \$1 million towards purchasing new off road vehicles to come into early compliance with ARB's in use heavy duty diesel off road program.

**CITY OF SANTA MONICA BIG BLUE BUS - \$21,024 Settlement**

In March 2009, the City of Santa Monica Big Blue Bus (BBB) agreed to pay \$21,024 in penalties; \$15,768 to the California Air Pollution Fund, \$2,628 to the Peralta Community College District, and \$2,628 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that BBB failed to meet the Fleet Rule for Transit Agencies-Transit Fleet Vehicle Requirements (TFV), Title 13 CCR Section 2023.2 (b) (1) for PM reductions and for the Periodic Smoke Inspection Program (PSIP). ARB documented violations as they related to the TFV and the PSIP. To settle the case, BBB agreed to the \$21,024 penalty and to comply with the TFV, PSIP, and other ARB programs.

**CLUB CAR, INC. - \$15,000 Settlement**

In May 2009 it came to the attention of the Air Resources Board (ARB) that Club Car Inc. failed to certify its electric golf carts pursuant to California Code of Regulations, title 13, section 2410(a) (2). Club Car Inc. immediately took action and submitted its electric golf cart certification to ARB's certification section for the current model year. Club Car Inc. settled the violations in August 2009 for \$15,000.

**COUNTY OF KERN REGIONAL TRANSIT - \$13,125 Settlement**

In April 2009, the County of Kern agreed to pay \$13,125 in penalties; \$9,844 to the California Air Pollution Fund, \$1,641 to the Peralta Community College District, and \$1,641 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that the County of Kern failed to meet the Fleet Rule for Transit Agencies-Transit Fleet Vehicle Requirements (TFV), Title 13 CCR Section 2023.2 (b) (1) for PM reductions, and for the Periodic Smoke Inspection Program (PSIP).

ARB documented violations as they related to the TFV and the PSIP. To settle the case, the County of Kern agreed to the \$13,125 penalty and to comply with the TFV, PSIP, and other ARB programs.

**CUMMINS CAL PACIFIC LLC - \$24,000 Settlement**

In January 2009, Cummins Cal Pacific LLC paid \$24,000 in penalties, \$18,000 to the California Air Pollution Control Fund and \$6,000 to the California Pollution Control Financing Authority, for violating air quality regulations.

An investigation by the ARB showed that Cummins Cal Pacific LLC failed to comply with the California Vehicle Code (VC) Section 27156 by removing Original Equipment Manufacturer (OEM) aftertreatment devices. Cummins Cal Pacific LLC also failed to comply with the terms and conditions specified in the applicable Executive Order (EO) by installing Verified Diesel Emission Control Strategies in non-verified configurations. To settle the case, Cummins Cal Pacific LLC agreed to the \$24,000 penalty and to comply with the VC Section 27156 and the applicable EO.

**DALCO TRUCK RENTALS, INC. - \$28,875 Settlement**

Dalco Truck Rentals, Inc., in May of 2009, agreed to pay \$28,875 in penalties to the California Air Pollution Control Fund for violating air quality regulations. An investigation by ARB showed Dalco Truck Rentals, Inc., failed to properly self-inspect their diesel fleet to insure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle this case, Dalco Truck Rentals, Inc., San Leandro agreed to pay the \$28,875 penalty and to comply with the Periodic Smoke Inspection Program and other ARB regulations.

**DATELAND CONSTRUCTION - \$31,950 Settlement**

In August 2009, Dateland Construction Co., Inc., (Dateland), agreed to pay \$31,950 in penalties; \$23,963 to the California Air Pollution Fund, \$3,993.75 to the Peralta Community College District, and \$3,994 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Dateland failed to properly self-inspect their diesel vehicles to assure the vehicles met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, Dateland agreed to the \$31,950 penalty and to comply with the PSI and other ARB programs.

**DISPATCH TRANSPORTATION, LLC - \$22,875 Settlement**

In July 2009, Dispatch Transportation, Inc. (Dispatch) agreed to pay \$22,875 in penalties; \$17,156 to the California Air Pollution Fund, \$2,859 to the Peralta Community College District, and \$2,859 to the California Pollution Control Financing Authority for violating air quality regulations.

An investigation by the ARB showed that Dispatch failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the

case, Dispatch agreed to the \$22,875 penalty and to comply with the PSI and other ARB programs. During 2009, Dispatch worked with ARB to help educate the trucking community about California Air Regulations.

**DONALDSON COMPANY, INC. – \$2,150,000 Settlement**

In September 2009, Donaldson Company, Inc. paid \$650,000 in penalties, \$487,500 to the California Air Pollution Control Fund and \$162,500 to the California Pollution Control Financing Authority, for violating air quality regulations. Donaldson Company will also spend over \$1,500,000 for remediation.

An investigation by the ARB showed that Donaldson Company failed to comply with the California Vehicle Code (VC) Section 27156, the Aftermarket Parts Regulations and the Verified Diesel Emission Control Strategy (VDECS) Verification Procedure. To settle the case, Donaldson Company agreed to the \$650,000 penalty and to comply with the VC Section 27156, the Aftermarket Parts Regulations, the VDECS Verification Procedure and the applicable Executive Orders. Donaldson Company also agreed to corrective actions as the following: labeling each system shipped to California after October 19, 2007, with a unique serial number, inspecting and replacing improperly labeled engines/devices, inspecting and replacing engine/device labels on Port of Long Beach and Port of Los Angeles off-road trucks but labeled as on-road trucks, inspecting and replacing Donaldson 6100 series engine/device labels that are labeled as 6000, removing all hang tag labels and replacing them with permanently affixed labels, removing the currently unverified particulate matter filter systems from trucks and replacing them with verified systems, correcting and replacing all labels such that the corrected label only identifies one device name, and providing documentation of their progress to ARB within one year. This remediation will cost Donaldson Company over \$1,500,000.

**EDCO DISPOSAL CORPORATION – \$219,500 Settlement**

In October 2009, EDCO Disposal Corporation paid \$219,500 in penalties, \$164,812 to the California Air Pollution Control Fund, \$27,469 to the Peralta Community College District and \$27,469 to the California Pollution Control Financing Authority.

An investigation by the ARB showed that EDCO Disposal Corporation failed to comply with the Periodic Smoke Inspection Program (PSIP). To settle the case, EDCO Disposal Corporation agreed to the \$219,500 penalty and to comply with the PSIP and other ARB programs.

**FIRST STUDENT, INC. (FORMERLY LAIDLAW – STATEWIDE) - \$300,000 Settlement**

First Student agreed to pay \$300,000 in penalties; \$225,000 to the California Air Pollution Control Fund, \$37,500 to the Peralta Community College District, and \$37,500 to the California Pollution Financing Authority for violating air quality regulations.

First Student, Inc. (formerly known as Laidlaw Transit, Inc.) failed to properly self-inspect its diesel trucks as required by the PSIP. To resolve its violations, First Student, Inc. agreed to pay a penalty of \$300,000, train its employees to comply with the PSIP and other ARB diesel enforcement programs and maintain compliance with these programs in the future.

The violations cover a two year period, from 2005-1206, at the following First Student, Inc. fleet facilities: Fresno, Newman, Richmond, San Francisco, Santa Rosa, Yuba City, Stockton, San Jose, Morongo, Palm Springs, San Bernardino, Rancho Dominguez, Corona, Upland, Perris, Los Angeles, North Hollywood, Hesperia, Pasadena, Santa Ana, San Gabriel, Mission Viejo, Canoga park, Riverside, Etiwanda, Barstow, and Yermo.

**GALAXY COACH - \$15,000 Settlement**

During February 2007, the Air Resources Board (ARB) discovered that the limousine builder, Galaxy Coach, was offering for sale and selling new, non-California certified vehicles in California. Galaxy Coach made modifications to the original certified vehicles by stretching them for use as limousines, which resulted in a new type of vehicle augmented with size and weight increases. Under ARB regulations, these increases in weight and size required the limousine manufacturer to certify the modified vehicles. Galaxy Coach did not certify their modified limousines in violation of Health and Safety Code Sections 43150 through 43156, and Vehicle Code Section 27156. During June 2009, the ARB and Galaxy Coach reached a mutual settlement agreement which included a penalty of \$15,000 payable to the California Air Pollution Control Fund.

**GENERAL PRODUCE COMPANY – \$30,900 Settlement**

In December 2009, General Produce Company paid \$30,900 in penalties, \$23,175 to the California Air Pollution Control Fund and \$7,725 to the Peralta Community College District.

An investigation by the ARB showed that General Produce Company failed to comply with the large facility reporting requirements of the Transport Refrigeration Unit (TRU) Airborne Toxic Control Measure (ATCM). To settle the case, General Produce Company agreed to the \$30,900 penalty and to comply with the TRU ATCM.

**GOLDEN STATE LUMBER INC. - \$20,000 Settlement**

In December 2009 Golden State Lumber, Inc. agreed to pay \$20,000 in penalties for violating air quality regulations: \$15,000 will go to the California Air Pollution Control Fund, which provides funding for projects and research to improve California's air quality; \$5,000 will go to Peralta Community College District to fund emission education classes conducted by participating California community colleges, under the California Council for Diesel Education and Technology (CCDET) program. An investigation by the Air Resources Board (ARB) showed that Golden State Lumber, Inc. failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Golden State Lumber agreed to the \$20,000 penalty and to comply with the Periodic Smoke Inspection program.

**GP MOTORCYCLES - \$90,000 Settlement**

GP Motorcycles is a motorcycle dealer located in San Diego, California. GP Motorcycles was issued a Notice of Violation in September 2006, for selling off-road certified Husqvarna motorcycles as on-road motorcycles, many of which were equipped with 'street-legal' kits, all licensed and registered with on-road motorcycle plates, both illegal in California. After

settlement discussions came to an impasse, this case was referred to the Attorney General's office for prosecution. A settlement was entered in Superior Court in April, 2009, in the amount of \$90,000 for Health and Safety Code violations, and Attorneys fees.

**GRIFFIN SOIL - \$12,000 Settlement**

In February 2009, Griffin Soil agreed to pay \$12,000 in penalties; \$9,000 to the California Air Pollution Fund, \$1,500 to the Peralta Community College District, and \$1,500 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Griffin Soil failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, Griffin Soil agreed to the \$12,000 penalty and to comply with the PSI and other ARB programs.

**HAWTHORNE MACHINERY CO. - \$28,500 Settlement**

In January 2009, Hawthorne Machinery Co. paid \$28,500 penalties, \$21,375 to the California Air Pollution Fund and \$7,125 to the California Pollution Control Financing Authority, for violating air quality regulations.

An investigation by the ARB showed that Hawthorne Machinery Co. failed to comply with the California Vehicle Code (VC) Section 27156 by removing Original Equipment Manufacturer (OEM) aftertreatment device. Hawthorne Machinery Co. also failed to comply with the terms and conditions specified in the applicable Executive Order (EO) by installing Verified Diesel Emission Control Strategies in non-verified configurations. To settle the case, Hawthorne Machinery Co. agreed to the \$28,500 penalty and to comply with the VC Section 27156 and the applicable EO.

**HOLT OF CALIFORNIA - \$18,750 Settlement**

In January 2009, Holt of California paid \$18,750 in penalties, \$14,063 to the California Air Pollution Control Fund and \$4,688 to the California Pollution Control Financing Authority, for violating air quality regulations.

This settlement was reached in December 2008 and the case was closed in January 2009. An investigation by the ARB showed that Holt of California failed to comply with the terms and conditions specified in the applicable Executive Order (EO). Holt installed Verified Diesel Emission Control Strategy (VDECS) devices in a non-verified configuration. To settle the case, Holt of California agreed to the \$18,750 penalty and to comply with the applicable EO.

**HUMBOLDT TRANSIT AUTHORITY – \$24,000 Settlement**

In September 2009, Humboldt Transit Authority paid \$24,000 in penalties, \$18,000 to the California Air Pollution Control Fund, \$3,000 to the Peralta Community College District, and \$3,000 to the California Pollution Control Financing Authority, for violating air quality regulations.

An investigation by the ARB showed that Humboldt Transit Authority, consisting of the Arcata/Mad River Transit System, Eureka Transit Service and the Humboldt/Redwood Transit System, failed to comply with the Periodic Smoke Inspection Program (PSIP), the Fleet Rule for Transit Agencies - Transit Fleet Vehicle Requirements (TFV), and the Fleet Rule for Transit Agencies - Urban Bus Requirements (UB). To settle the case, Humboldt Transit Authority agreed to the \$24,000 penalty and to comply with the PSIP, the TFV, the UB and other ARB programs.

**JLG HARVESTING - \$21,500 Settlement**

The California Air Resources Board fined JLG Harvesting Inc., \$21,500 last month for emissions violations during 2005 and 2006 at its Salinas, Calif., terminal. An ARB investigation showed JLG Harvesting failed to properly inspect some of its diesel vehicles, as required by California law. JLG Harvesting Inc., paid \$21,500 in penalties: \$16,125 went to the California Air Pollution Control Fund, for projects and research to improve California's air quality. The Peralta Community College District received \$2,687 to fund emissions education classes conducted by participating California community colleges. The remaining \$2,687 went to the California Pollution Control Financing Authority to fund low-interest loans for owners of off-road diesel-powered construction vehicles.

**KEY DISPOSAL, INC. - \$500,000 Settlement**

In October 2009, the case of Key Disposal, Inc. was settled for \$500,000 in penalties, \$250,000 paid to the California Air Pollution Control Fund and the balance of the fine will be stayed, pending no further violations.

An investigation by the ARB showed that Key Disposal failed to comply with the Periodic Smoke Inspection Program (PSIP) and the Solid Waste Collection Vehicle (SWCV) rule. This case was referred to the Office of the California Attorney General for prosecution, and was ultimately settled for \$500,000. According to the court order, the company will pay \$250,000 and the balance of the fine will be stayed, pending no further violations. Key Disposal was required to bring their entire fleet of vehicles into compliance with ARB programs and regulations. In addition, Key Disposal employees responsible for fleet maintenance must complete a community college diesel emissions compliance education class conducted by the California Council on Diesel Education and Technology.

**LOOMIS ARMORED US, INC. - \$16,000 Settlement**

In February 2009, Loomis Armored US, Inc. (Loomis) agreed to pay \$16,000 in penalties; \$12,000 to the California Air Pollution Fund, \$2,000 to the Peralta Community College District, and \$2,000 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Loomis failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, Loomis agreed to the \$16,000 penalty and to comply with the PSI and other ARB programs.

**LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (LA MTA)  
- \$162,000 Settlement**



In May 2009, the LA MTA agreed to pay \$162,000 in penalties; \$121,500 to the California Air Pollution Fund, \$20,250 to the Peralta Community College District, and \$20,250 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that the LA MTA failed to meet the Fleet Rule for Transit Agencies-Transit Fleet Vehicle Requirements (TFV), Title 13 CCR Section 2023.2 (b) (1) for PM reductions, and for the Periodic Smoke Inspection Program (PSIP). ARB documented violations as they related to the TFV and the PSIP. To settle the case, the LA MTA agreed to the \$162,000 penalty and to comply with the TFV, PSIP, and other ARB programs.

**MELLO MILK TRANSPORT INC. - \$37,000 Settlement**

The California Air Resources Board last month fined a Newman, Calif. heavy-duty diesel fleet \$37,000 for failing to inspect its diesel trucks for compliance with the state's smoke emissions standards. ARB investigators found that Mello Milk Transport, Inc., failed to conduct diesel truck smoke tests in 2008 and 2009 at its fleet facility, as required by state law. The California Air Pollution Control Fund, established to mitigate various sources of pollution through education and the advancement and use of cleaner technology, will receive \$27,750 and the remaining \$9,250 will go to the Peralta Community College District to fund diesel education classes.

**MOTO FORZA - \$90,000 Settlement**

Moto Forza (formerly known as Aprilia Ducati of Oceanside) is a motorcycle dealer located in Escondido, California. Moto Forza was issued a Notice of Violation in September 2006, for selling off-road certified Husqvarna motorcycles as on-road motorcycles, many of which were equipped with 'street-legal kits,' all licensed and registered with on-road motorcycle plates, both illegal in California. After settlement discussions came to an impasse, this case was referred to the Attorney General's office for prosecution. A settlement was entered in Superior Court in April, 2009, in the amount of \$90,000 for Health and Safety Code violations, and Attorneys fees.

**MOTOR TRIKE INC. - \$25,000 Settlement**

The Mobile Source Enforcement Section along with the Office of Legal Affairs has completed its investigation against Motor Trike, Inc. located in Troupe, Texas. Motor Trike Inc. was manufacturing after market parts kits that would convert on-road two wheel motorcycles into three wheel motorcycles. By installing this kit this would alter or modify the original design of the motorcycle and could affect the emission control systems that were certified by the manufacture through ARB. As part of the settlement it was agreed between both parties that Motor Trike Inc. would not install, sell, offer for sale or advertise in California, any device intended for use with, or as part of, any required motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system unless it has first received an exemption from ARB. Motor Trike Inc. also paid penalties in the amount of \$25,000 to the California Air Pollution Control Fund as part of the settlement.

**MP ENVIRONMENTAL SERVICES - \$14,250 Settlement**

In March, 2009, MP Environmental Services, Inc. paid \$14,250 in penalties for violating air quality regulations; \$10,688 went to the California Air Pollution Control Fund, \$1,781 to the Peralta Community College District for distribution to participating California Council on Diesel Education and Technology (CCDET) colleges, and \$1,781 to the California Pollution Control Financing Authority to guarantee loans to off-road vehicle fleets that need to buy exhaust retrofits to comply with the in-use off-road diesel vehicle regulation. This settlement was reached on March 17, 2009. An investigation by the Air Resources Board (ARB) showed that MP Environmental Services, Inc. failed to comply with the Periodic Smoke Inspection Program (PSIP) in 2005 and 2006 years on applicable diesel vehicles. To settle the case, MP Environmental Services, Inc. agreed to the \$14,250 penalty and to comply with the PSIP, Heavy-Duty Diesel Inspection (HDVIP), and other ARB Programs.

#### **NASA SERVICES – \$21,500 Settlement**

In July 2009, NASA Services paid \$21,500 in penalties for violating air quality regulations; \$16,125 went to the California Air Pollution Control Fund, \$2,687 to the Peralta Community College District and \$2,687 to the California Pollution Control Financing Authority

An investigation by the ARB showed that NASA Services failed to comply with the Solid Waste Collection Vehicle (SWCV) rule. To settle the case, NASA Services agreed to the \$21,500 penalty and to comply with the SWCV rule.

#### **NISHIMOTO TRADING, LLC - \$52,250 Settlement**

In January 2009, Nishimoto Trading, LLC paid \$52,250 in penalties, \$37,687 to the California Air Pollution Control Fund, \$6,281 to the Peralta Community College District and \$6,281 to the California Pollution Control Financing Authority, for violating air quality regulations.

An investigation by the ARB showed that Nishimoto Trading, LLC failed to submit in time a Transport Refrigeration Unit Facilities (TRU) report required from larger cold storage facilities, and also failed to properly self-inspect the portion of their diesel powered fleet that falls under the Periodic Smoke Inspection Program (PSIP). To settle the case, Nishimoto Trading, LLC, agreed to the \$52,250 penalty and to comply with ARB regulations.

#### **NISSAN MOTOR COMPANY - \$4.4 Million Settlement**

In March 2009, Nissan Motor Company settled with ARB to pay \$4.4 million in fines for violating air quality regulations. Nissan subsequently paid \$3 million to the California Air Pollution Control Fund, \$1.2 million to the Environmental Education Initiative and \$200,000 to the National OBD Clearinghouse.

An investigation by the ARB revealed that Nissan failed to comply with some of the agency's On Board Diagnostic (OBD) requirements on many of their 2005 to 2007 vehicles. OBD systems are self diagnostic systems incorporated into the vehicle computer to monitor proper emission performance. If a problem is detected, the OBD system turns on a warning lamp to alert the driver. OBD systems are an important part of air pollution control and the Smog Check program. Upon discovery of this noncompliance, Nissan cooperated with ARB and proactively reviewed their diagnostic systems to identify and disclose all

noncompliance. To settle the case, Nissan agreed to the \$4.4 million penalty. Nissan also implemented changes to their design efforts and engineering processes to ensure such shortfalls would not occur in future models

#### **ORANGE COUNTY TRANSPORTATION AUTHORITY - \$55,000 Settlement**

In June 2009, Orange County Transportation Authority paid \$55,000 in penalties for violating air quality regulations; \$41,250 went to the California Air Pollution Control Fund, \$6,875 to the Peralta Community College District and \$6,875 to the California Pollution Control Financing Authority.

An investigation by the ARB showed that the Orange County Transportation Authority failed to comply with the Fleet Rule for Transit Agencies –Transit Fleet Vehicle Requirements by exceeding the transit fleet Particulate Matter (PM) emission total. In addition, the Orange County Transportation Authority also failed to properly self-inspect the portion of their diesel powered vehicle fleet that falls under the Periodic Smoke Inspection Program (PSIP). To settle the case, the Orange County Transportation Authority agreed to the \$55,000 penalty and to comply with the Fleet Rule for Transit Agencies –Transit Fleet Vehicle Requirements and the PSIP.

#### **PACIFIC PETROLEUM - \$21,000 Settlement**

The California Air Resources Board fined Pacific Petroleum \$21,000 last month for emissions violations during 2006 and 2007. An ARB investigation showed Pacific Petroleum failed to properly inspect its diesel vehicles for smoke emissions at its Santa Maria, Calif., terminal. As part of the settlement, Pacific Petroleum is required to guarantee employees responsible for conducting the inspections attend a California community college training class on diesel emissions compliance testing and provide certificates of completion within one year, provide documentation to ARB that the inspections are being carried out for the next four years, ensure all of the company's on-road heavy-duty diesel engines have their software updated with the latest low-NOx (oxides of nitrogen emissions) programming, instruct vehicle operators to comply with the state's idling regulations, comply with requirements of the fleet rule for transit agencies, and ensure that all on-road diesel engines are up to federal emissions standards for the vehicle model year and are properly labeled with an emissions control certification label. Pacific Petroleum paid \$21,000 in penalties: \$15,750 went to the California Air Pollution Control Fund for projects and research to improve California's air quality. The Peralta Community College District received \$2,625 to fund emissions education classes conducted by participating California community colleges; and, the remaining \$2,625 went to the California Pollution Control Financing Authority which guarantees loans to off-road vehicle fleets that need to buy exhaust retrofits to comply with state regulations.

#### **PENHALL FABRICATION - \$10,000 Settlement**

During our ongoing investigation into the sale and use of non-California certified Off-Highway Recreational Vehicles (OHRV), staff for the Mobile Source Enforcement Section discovered that Penhall Fabrication, Inc., located in Costa Mesa, California, offered for sale and sold to California resident's illegal non-California certified Sand cars. This is a violation

of California Health and Safety Code Sections 43150 through 43153. Penhall Fabrication paid into the Air Pollution Control Fund \$10,000 in February 2009 to settle these violations.

**PSC INDUSTRIAL OUTSOURCING, LP - \$27,000 Settlement**

The PSC INDUSTRIAL OUTSOURCING, LP in January 2009, paid \$27,000 in penalties; \$20,250 to the California Air Pollution Fund, \$3,375 to the Peralta Community College District, and \$3,375 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by ARB showed that PSC INDUSTRIAL OUTSOURCING, LP, failed to properly self-inspect their diesel fleet to insure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle this case, PSC INDUSTRIAL OUTSOURCING, LP, Benicia, agreed to pay the \$27,000 penalty and to comply with the Periodic Smoke Inspection Program and other ARB regulations.

**RANCHO HARVEST - \$21,675 Settlement**

The California Air Resources Board last month fined a Santa Maria, Calif., based company \$21,675 for failing to inspect its diesel trucks at a Salinas fleet center for compliance with the state's smoke emissions standards. ARB investigators found that Rancho Harvest, Inc., failed to conduct diesel truck smoke tests in 2006 and 2007 at the Salinas facility, as required by state law. The California Air Pollution Control Fund, established to mitigate various sources of pollution through education and the advancement and use of cleaner technology, will receive \$16,256; \$2,709 will go to the Peralta Community College District to fund diesel education classes; and, the remaining \$2,709 to the California Air Pollution Control Financing Authority.

**ROBERTSON'S READY MIX - \$65,700 Settlement**

In May 2009, Robertson's Ready Mix agreed to pay \$65,700 in penalties; \$49,275 to the California Air Pollution Fund, \$8,213 to the Peralta Community College District, and \$8,213 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Robertson's Ready Mix failed to properly self-inspect their diesel vehicles to assure the vehicles met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, Robertson's Ready Mix agreed to the \$65,700 penalty and to comply with the PSI and other ARB programs.

**SANCO PIPELINES - \$12,375 Settlement**

In October 2009, Sanco Pipelines, Inc., agreed to pay \$12,375 in penalties; \$9,281 to the California Air Pollution Control Fund and \$3,094 to the Peralta Community College District, for violating air quality regulations.

An investigation by the ARB showed that Sanco Pipelines, Inc., failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Sanco Pipelines, Inc., agreed to the \$12,375 penalty and to comply with the PSIP and other ARB programs.

### **SAN DIEGO METROPOLITAN TRANSIT SYSTEM - \$47,750 Settlement**

In June 2009, San Diego Metropolitan Transit System paid \$47,750 in penalties for violating air quality regulations; \$35,813 went to the California Air Pollution Control Fund, \$5,969 to the Peralta Community College District and \$5,969 to the California Pollution Control Financing Authority.

An investigation by the ARB showed that the Metropolitan Transit System failed to comply with the Fleet Rule for Transit Agencies –Transit Fleet Vehicle Requirements by exceeding the transit fleet NOx and Particulate Matter (PM) emissions total. In addition, the Metropolitan Transit System also failed to properly self-inspect the portion of their diesel powered vehicle fleet that falls under the Periodic Smoke Inspection Program (PSIP). Veolia Transportation Services, Inc., First Transit and McDonald Transit Associates, Inc. were the contractors responsible for the maintenance and the compliance with the PSIP for the majority of the Metropolitan Transit System fleet in violation of the PSIP. The contractors paid the penalties for the PSIP violations for which they were responsible. To settle the case, the Metropolitan Transit System agreed to the \$47,750 penalty and to comply with the Fleet Rule for Transit Agencies –Transit Fleet Vehicle Requirements and the PSIP.

### **SANITY'S EDGE CUSTOM CYCLES - \$20,000 Settlement**

The Mobile Source Enforcement Section in conjunction with the ARB's Office of Legal Affairs and the California Attorney General's Office have entered into an agreement in the amount of \$20,000 with Jeffery M. Flowers doing business as Sanity's Edge Custom Cycles. Jeffery Flowers had a business in Mentone, California where he was building custom motorcycles and selling them to California residents without getting certification from the Air Resources Board. This is a violation Health and Safety Code section 43150, et seq.

The case was referred to the California Attorney General's Office for prosecution because Mr. Flowers refused to settle with ARB. Based on his ability to pay, the penalty amount was reduced to \$6,800 with the stipulation that if Mr. Flowers violates the terms of the agreement he must immediately pay the complete sum of \$20,000. This case was settled in February 2009 and the money will be paid into the Air Pollution Control Fund.

Mr. Flowers was also immediately and permanently enjoined and restrained from violating Health and Safety Code section 43150, et seq.

### **SCOOTER IMPORTER - \$33,000 Settlement**

ScooterImporter.com, Inc is a scooter dealership located in Alameda, California that sold uncertified off-road motorcycles and pocket bikes in violation of Health and Safety Code sections 43151 – 43153. After settlement discussions came to an impasse, this case was referred to the Alameda County District Attorney's Office for prosecution. A settlement was reached in May 2009, in the amount of \$33,000 for Health and Safety Code violations.

**SILVER STATE TRAILWAYS - \$15,750 Settlement**

In May 2009, Silver State Trailways agreed to pay \$15,750 in penalties; \$11,813 to the California Air Pollution Fund, \$1,969 to the Peralta Community College District, and \$1,969 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Silver State Trailways failed to properly self-inspect their diesel vehicles to assure the vehicles met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Silver State Trailways agreed to the \$15,750 penalty and to comply with the PSIP and other ARB programs.

**SPANKY'S PORTABLE SERVICES INC. - \$12,000 Settlement**

In February 2009, Spanky's Portable Services, Inc. paid \$12,000 in penalties; \$9,000 to the California Air Pollution Control Fund, \$1,500 to the Peralta Community College District and \$1,500 to the California Pollution Control Financing Authority, for violating air quality regulations.

An investigation by the ARB showed that Spanky's Portable Services, Inc. failed to properly self-inspect the portion of their diesel powered fleet that falls under the Periodic Smoke Inspection Program (PSIP). To settle the case, Spanky's Portable Services, Inc., agreed to the \$12,000 penalty and to comply with ARB regulations.

**SPEED'S OIL TOOL SERVICE - \$11,625 Settlement**

In March 2009, Speed's Oil Tool Service paid \$11,625 in penalties for violating air quality regulations for two previous years. In the agreement, \$8,719 went to the California Air Pollution Control Fund, \$1,453 to the Peralta Community College District for distribution to participating California Council on Diesel Education and Technology (CCDET) colleges, and \$1,453 to the California Pollution Control Financing Authority to guarantee loans to off-road vehicle fleets that need to buy exhaust retrofits to comply with the in-use off-road diesel vehicle regulation. This settlement was completed on March 11, 2009. An investigation by the Air Resources Board (ARB) showed that Speed's Oil Tool Service failed to comply with the Periodic Smoke Inspection Program (PSIP) in 2006 and 2007 years on applicable vehicles. To settle the case, Speed's Oil Tool Service agreed to the \$11,625 penalty and to comply with the PSIP, Heavy-Duty Diesel Inspection Program (HDDIP) and other ARB Programs.

**STURGEON & SON TRUCKING INC. - \$14,500 Settlement**

The California Air Resources Board has fined Sturgeon & Son, Inc. \$14,500 for emissions violations during 2007 and 2008. An ARB investigation showed Sturgeon & Son, Inc., based in Bakersfield, Calif., failed to properly inspect some of their diesel vehicles, as required by California law. Failing to conduct these inspections can lead to an increase of toxic diesel particulate matter in the air. Sturgeon & Son paid \$14,500 in penalties: \$10,875 went to the California Air Pollution Control Fund for projects and research to improve California's air quality. The Peralta Community College District received \$1,813 to

fund emissions education classes conducted by participating California community colleges. The remaining \$1,813 went to the California Pollution Control Financing Authority which guarantees loans to off-road vehicle fleets that need to buy exhaust retrofits to comply with state regulations.

**SUNBELT RENTALS, INC. - \$98,500 Settlement**

In August 2009, Sunbelt Rentals agreed to pay \$98,500 in penalties; \$73,875 to the California Air Pollution Fund, \$12,313 to the Peralta Community College District, and \$12,313 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Sunbelt Rentals failed to properly self-inspect their diesel vehicles to assure the vehicles met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Sunbelt Rentals agreed to the \$98,500 penalty and to comply with the PSIP and other ARB programs.

**SUNRISE FORD - \$175,000 Settlement**

On January 20, 2005 Sunrise Ford began installing a non-exempted aftermarket device known as the "Fuel Maximizer" into new 2005 through 2007 model year light- and medium-duty motor vehicles. This was done before the equitable or legal title of the vehicles had been transferred to an ultimate purchaser. By installing the non-exempted aftermarket part, Sunrise Ford transformed each motor vehicle from a California certified to a non-California certified configuration. Sunrise Ford settled the violations in April 2009 for \$175,000.

**TEMECULA VALLEY UNIFIED SCHOOL DISTRICT - \$18,500 Settlement**

In January 2009, the ARB fined the Temecula Valley Unified School District \$18,500 for failing to inspect its diesel truck and bus fleet in 2006 and 2007; 13,875 went to the California Air Pollution Control Fund, \$2313 to the Peralta Community College District and \$2313 to the California Pollution Financing Authority.

The Riverside County-based school district is required by law, as are all diesel fleet owners, to perform periodic smoke inspections to test for excessive emissions and engine tampering. Other terms of the settlement include requirements that all staff responsible for compliance attend diesel education classes, and that each bus and heavy duty vehicle in the fleet carry proof that its engine meets appropriate emissions standards by having a manufacturer emission control label properly affixed to the engine.

**THE SANDCAR ASSOCIATION - \$600,000 Settlement**

A sandcar is a high performance recreational vehicle that is popular in areas like Pismo Beach and Glamis Dunes. They typically have paddle tires and 400+ horsepower engines, and the cost ranges from \$50,000 to well over \$100,000. During the housing market boom, customers were pulling equity money out of their houses and sandcar builders were backlogged with orders. Unfortunately, they were building vehicles that were not certified for sale or use in California.

The Mobile Source Enforcement Section, in conjunction with the Office of Legal Affairs (OLA) has completed a lengthy enforcement investigation that includes a settlement with the sandcar industry that totals \$600,000. In addition to the penalties, at least three sandcar engine builders have now developed compliant engines and received ARB Executive Orders. As a result, the industry is now building compliant sandcars.

In response to the ARB enforcement action, most of the major sandcar and engine builders formed the Sandcar Association to ensure that their members build compliant products. This has been a win-win for air quality and the sandcar industry, because the industry is now using ARB certified engines and self enforcing its members to comply. In addition, in lieu of having to negotiate thirty- seven individual settlements, the ARB negotiated one settlement with the Association and entered into thirty-seven settlement agreements with the members that had violations for uncertified vehicles. Although it was still a lengthy and challenging process, dealing with the Association conserved ARB enforcement and OLA resources.

Under the terms of the agreements, members of the Association agreed to pay \$600,000 to the Air Pollution Control Fund. Two of the companies have paid in full while the others are paying with a series of payments that are stretched out over 18 months.

#### **TRUGREEN LANDCARE - \$11,000 Settlement**

The TruGreen Landcare in January of 2009 paid \$11,000 in penalties to the California Air Pollution Control Fund for violating air quality regulations. An investigation by ARB showed that TruGreen Landcare failed to properly self-inspect their diesel fleet to insure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle this case, TruGreen, San Jose, California agreed to pay \$8,250 to the California Air Pollution Control Fund, \$1,375 to the Peralta Community College District and \$1,375 to the California Pollution Control Financial Authority and to comply with the Periodic Smoke Inspection Program and other ARB regulations.

#### **UNITED PACIFIC WASTE - \$22,500 Settlement**

In February 2009, United Pacific Waste paid \$22,500 in penalties for violating air quality regulations; \$16,875 went to the California Air Pollution Control Fund, \$28,123 to the Peralta Community College District and \$2,813 to the California Pollution Control Financing Authority.

This settlement was reached in February 2009 and the case was closed in March 2009. An investigation by the ARB showed that United Pacific Waste failed to properly self-inspect the portion of their diesel powered vehicle fleet that falls under the Periodic Smoke Inspection Program (PSIP). United Pacific Waste also failed to comply with the Solid Waste Collection Vehicle (SWCV) rule by not applying best available control technology to the required number of SWCV engines. To settle the case, United Pacific Waste agreed to the \$22,500 penalty and to comply with the PSIP and the SWCV rule.

#### **UNITED RENTALS, INC. - \$166,800 Settlement**



In May 2009, United Rentals, Inc. (United Rentals) agreed to pay \$166,800 in penalties; \$125,100 to the California Air Pollution Fund, \$20,850 to the Peralta Community College District, and \$20,850 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that United Rentals failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, United Rentals agreed to the \$166,800 penalty and to comply with the PSI and other ARB programs.

**VALLEY HARVESTING & PACKING, INC. - \$10,000 Settlement**

The California Air Resources Board fined an Imperial County crop harvesting company \$10,000 for diesel truck emission violations. ARB fined Valley Harvesting & Packing Inc. of Heber, Calif. for failure to maintain fleet management records in 2005 and 2006 as required by law. The company will pay \$10,000 in penalties; \$7,500 will go to the California Air Pollution Control Fund, which provides funding for projects and research to improve California's air quality, \$1,250 will go to Peralta Community College District to fund emission education classes conducted by participating California community colleges under the California Council for Diesel Education and Technology, and the remaining \$1,250 will go to the California Pollution Control Financing Authority to fund low-interest loans for owners of off-road, diesel-powered construction vehicles.

**VEOLIA ES INDUSTRIAL SERVICES, INC. - \$18,000 Settlement**

The Veolia ES Industrial Services, Inc., in April 2009 agreed to pay \$18,000 in penalties; \$13,500 to the California Air Pollution Control Fund, \$2,250 to the Peralta Community College District, and \$2,250 to the California Pollution Control Financing Authority for violating air quality regulations.

An investigation by ARB showed Veolia ES Industrial Services, Inc., failed to properly self-inspect their diesel fleet to insure the truck met state smoke emission standards. ARB documented violations as they related to the periodic Smoke Inspection Program (PSIP). To settle this case, Veolia ES Industrial Services, Inc., Benicia agreed to pay the \$18,000 penalty and to comply with the Periodic Smoke Inspection Program and other ARB regulations.

**VEOLIA TRANSPORTATION (SIGNAL HILL) - \$16,500 Settlement**

In October 2009, Veolia Services agreed to pay \$16,500 in penalties; \$12,375 to the California Air Pollution Fund, \$4,125 to the Peralta Community College District, for violating air quality regulations.

An investigation by the ARB showed that Veolia ES. IND. Services failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSIP). To settle the case, Veolia Services agreed to the \$16,500 penalty and to comply with the PSIP and other ARB programs.

**VIVA MOTOR SPORTS - \$268,000 Settlement**

The Mobile Source Enforcement Section, in conjunction with the Office of Legal Affairs and Office of the Attorney General for the State of California have prevailed in a court ordered mediation and has entered into a court judgment in the amount of \$268,000 with multiple defendants including Viva Motor Sports, Inc. Each of the defendants was also enjoined in a permanent injunction prohibiting them from violating the terms of this agreement, and the provisions of Health and Safety Code section 43151, 43152 and 43153.

This case involved the importation and sale of non-California certified motorcycles and off-highway recreational vehicles to California residents that were subsequently registered or sold in California, which is prohibited by Health and Safety Code sections 43150 et seq. and Business and Professions Code Sections 17200 and 17500.

### **VOLVO CONSTRUCTION EQUIPMENT & SERVICES - \$6,750 Settlement**

In February 2009 Volvo Construction Equipment & Services paid \$6,750 in penalties (\$5,063 to the California Air Pollution Control Fund and \$1,688 to the California Pollution Control Financing Authority to guarantee loans to off-road vehicle fleets that need to buy exhaust retrofits to comply with the in-use off-road diesel vehicle regulation), for violating air quality regulations.

An investigation by the Air Resources Board (ARB) showed that Volvo Construction Equipment & Services failed to comply with the Regulation for In-Use Off-Road Diesel Vehicles Section 2449 (j), Title 13, CCR by not notifying the buyer that the off-road diesel vehicle may be subject to retrofit or accelerated replacement/repower requirements. Volvo Construction Equipment & Services also failed to comply with Section 2449(h) (8), Title 13, CCR by not maintaining records of the disclosure of regulation applicability required by Section 2449(j) for three years after the sale. To settle the case, Volvo Construction Equipment & Services agreed to the \$6,750 penalty and to comply with the In-Use Off-Road Diesel Vehicle regulations

### **WASTE CONNECTIONS, INC. - \$18,375 Settlement**

The California Air Resources Board (ARB) fined Waste Connections Inc. \$18,375 for emissions violations in 2008. In December 2008, Waste Connections Inc., headquartered in Folsom, Calif., purchased S.E.I. Solid Waste Inc. located in Arnold, Calif. Waste Connections then self-disclosed to ARB inspectors that S.E.I. vehicles were not compliant with California's trash truck rules. Waste Connections provided an aggressive schedule for bringing the fleet into compliance, as well as submitting to a statewide audit for all of their California terminals for compliance with the ARB's smoke inspection, engine labeling and trash truck programs. Waste Connections paid \$18,375 in penalties: \$13,781 went to the California Air Pollution Control Fund for projects and research to improve California's air quality. The Peralta Community College District received \$2,297 to fund emissions education classes conducted by participating California community colleges; and, the remaining \$22,967 went to the California Pollution Control Financing Authority which guarantees loans to off-road vehicle fleets that need to buy exhaust retrofits to comply with state regulations.

### **WAYNE SWISHER CEMENT, INC. - \$10,875 Settlement**

In March 2009, Wayne E. Swisher Cement, Inc. (Swisher Cement) agreed to pay \$10,875 in penalties; \$8,156 to the California Air Pollution Fund, \$1,359 to the Peralta Community College District, and \$1,359 to the California Pollution Control Financing Authority for violating air quality regulations. An investigation by the ARB showed that Swisher Cement failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. ARB documented violations as they related to the Periodic Smoke Inspection Program (PSI). To settle the case, Swisher Cement agreed to the \$10,875 penalty and to comply with the PSI and other ARB programs.

### **CONSUMER PRODUCTS CASES**

#### **AUBREY ORGANICS INC. - \$22,000 Settlement**

On August 17, 2009, a case was settled with Aubrey Organics, Inc. for manufacturing for sale in California non-compliant Natural Misst Hairspray, Natural Misst Superhold hairspray and non-compliant Men's Stock Hair Gel products. The Consumer Products Regulation specifies that all Hair Sprays sold in California must meet the 55 percent by weight VOC limit and all Hair Styling Products that are not pump/sprays must meet the 2% VOC limit. Aubrey Organics, Inc. paid \$22,000 to settle the case.

#### **CVS PHARMACY CONSUMER PRODUCTS - \$29,000 Settlement**

Between January 2007 and December 2008, CVS Pharmacy Inc. supplied 3,059 gallons of "Splash Windshield Washer -0°F" and 108 gallons of "Splash Windshield Washer -20°F" windshield washer fluids to multiple CVS pharmacies throughout non-Type A areas of California. Both products exceeded the one percent VOC limit set under the Consumer Product Regulations for the "Automotive Windshield Washer Fluid, all other areas" product category. The case was settled on November 1, 2009 for \$29,000.

#### **DO IT BEST CORPORATION - \$28,000 Settlement**

Between August 2004 and October 2007, Do it Best Corporation supplied

Prestone De-Icer Windshield Washer Fluid -25°F and Prestone De-Icer Windshield Washer Fluid -34°F windshield washer fluid to multiple Do it Best hardware stores and affiliated hardware stores throughout non-Type A areas of California. The products were all shipped from a Do It Best distribution center located outside of California. After multiple attempts to reach an amicable settlement with Do it Best Corporation by CPES staff, the case was referred to the Office of Legal Affairs for resolution. The case was settled on February 18, 2009 for \$28,000.

#### **FALCON SAFETY PRODUCTS, INC. - \$11,160 Settlement**

On August 25, 2009, a case was settled with Falcon Safety Products for selling non-compliant Office Max multi-purpose wipes and Dust -Off Cleaner/Degreaser subject to the VOC limit for non-aerosol and aerosol general purpose cleaners, title 17, California Code of Regulations (CCR), section 94509(a). The company was also cited for failure to annually report an explanation of their product code by January 31 of each year. Falcon Safety Products paid \$11,160 to settle the case.

**HOMAX GROUP CONSUMER PRODUCT CASES (3) - \$316,000 Settlement**

On December 23, 2009, 3 cases were settled with Homax Group for selling non-compliant gel air fresheners, general purpose adhesive removers, non-aerosol general purpose degreasers, and paint remover or strippers subject to the VOC limits in the Consumer Products Regulation. The company was also cited for failure to file an explanation of the product date code for some products or to file an annual update of the explanation of their product date code for other products. Homax Group paid \$316,000 to settle the 3 cases.

**JO-ANN STORES INC. CONSUMER PRODUCTS - \$10,000 Settlement**

On December 16, 2009, a case was settled with Jo-Ann Stores, Inc. for selling "store brand" non-compliant Reed Diffusers (Air Fresheners: liquid/pump) in retail stores located throughout California. The Consumer Products Regulation specifies that all Air Fresheners: liquid/pump sold in California must meet the 18 percent by weight VOC limit. Jo-Ann Stores, Inc. paid \$10,000 to settle the case and additional enforcement actions are continuing against the importer of the store branded products.

**MTC DISTRIBUTING - \$45,000 Settlement**

Between October 2005 and November 2007, MTC Distributing supplied

"Peak Windshield Wash and De-icer -20°F" windshield washer fluid to multiple gas stations throughout non-Type A areas of California. It was determined that a programming oversight inadvertently led to this product being sold in non-mountainous areas of the State. The product exceeded the one percent VOC limit set under the Consumer Product Regulations for the "Automotive Windshield Washer Fluid, all other areas" product category. The case was settled on January 29, 2009 for \$45,000.

**PACIFIC MARKETING ALLIANCE, INC. - \$25,000 Settlement**

On February 13, 2009, a case was settled with Pacific Marketing Alliance for importing and distributing various non-complying hair care products in California that were manufactured in Japan. All of the containers were labeled in Japanese with stickers showing the English translations and sold in ethnic food markets. The company paid \$25,000 in penalties to settle the violations of the Consumer Products Regulation.

**PACIFIC TRADE INTERNATIONAL ROOM SPRAY AIR FRESHENER - \$20,000 Settlement**

Pacific Trade International manufactures several types of home air freshener products, including reed diffusers and room sprays. During 2007 and 2008, Pacific Trade International sold or supplied several room spray products to retail outlets in the State of California that exceeded the 18% by weight VOC limit set under Consumer Products Regulation for the liquid or pump spray air freshener product category. The violation was settled for \$20,000 on September 30, 2009.

**PERFORMANCE WAREHOUSE - \$10,000 Settlement**

Between October 2006 and November 2008, Performance Warehouse supplied

“Rain-X De-icer -25°F”, “Xtreme Blue -20°F”, and “X treme Blue +20°F” windshield washer fluid products to multiple gas stations throughout non-Type A areas of California. Each of the products exceeded the one percent VOC limit set under the Consumer Product Regulations for the “Automotive Windshield Washer Fluid, all other areas” product category. The case was settled on September 29, 2009 for \$10,000.

#### **PRODUCT QUEST MANUFACTURING -\$11,000 SETTLEMENT**

On February 10, 2009, a case was settled with Product Quest Manufacturing, LLC for selling Men’s Zone Olympus Body Spray subject to the high volatility organic compound (HVOC) zero percent by weight limit for aerosol deodorants effective January 1, 2001, California Code of Regulations, Title 17, Section 94502 (a)(2) of the Antiperspirant and Deodorant Regulation. The company was also in violation of the date code requirement, Section 94502 for not filing an explanation of their date code three months prior to the effective date of the applicable standard or filing an explanation of their date code with the Executive Officer in advance of the code’s use by the manufacture. The company paid \$11,000 in penalties to settle the case.

#### **RITE AID CORPORATION - \$340,000 Settlement**

On January 8, 2009, an agreement with Rite Aid was executed to settle alleged violations of the California Consumer Products Regulation for \$340,000. Between February 2003 and December 2007, Rite Aid sold 8,662 gallons of Xtreme Blue -20°F, 177 gallons of Peak 0°F, and 1987 gallons of Peak +20°F windshield washer fluids that did not meet the 1 percent by weight volatile organic compound (VOC) limit for Automotive Windshield Washer Fluid (pre-mixed), as in their drug stores in non-Type A areas of California. During our investigations, Rite Aid failed to respond to our written requests for information and the Notice of Violation. They continued to sell the non-complying windshield waster fluids after being advised verbally and in writing to immediately cease sales.

#### **SAMY COMPANY - \$29,000 Settlement**

On June 5, 2009, a case was settled with Samy Company for selling 18,000 units of non-compliant Samy Fat Hair Thickening Spray into California. The consumer product regulation prohibits the sale, supply, offer for sale or manufacture for sale in California any aerosol and pump hair styling products that exceed the 6 percent by weight VOC limit for hair styling products. Additionally, the company was cited for failure to annually report an explanation of their product code by January 31 of each year. Samy Company paid \$29,000 to settle the case.

#### **TARGET CORPORATION THREE PORTABLE FUEL CONTAINER CASES - \$33,500 Settlement**

Between 2005 and 2008, Target sold over 1,100 Blitz brand non-complying portable fuel containers at retail locations throughout California. These containers did not comply with the performance standards for spill-proof systems in the California regulation. The manufacturer supplies both complying and non-complying products to Target for sale

nationwide and clearly informed Target which particular models could be not be sold in California. While Target claimed that mistakes had been made on store planograms which were corrected, Enforcement staff continued to find non-complying products on store shelves over a multiple year period. These cases were combined with the consumer products and small off-road engine violations and were referred by the Office of Legal Affairs to the Attorney General's Office. A civil complaint was filed in Sacramento County in October 2008. Target Corporation and the State of California agreed to a \$500,000 stipulated settlement which was executed by the County of Sacramento State Superior Court on October 6, 2009. Of the total amount, thirty three thousand five hundred dollars (\$33,500) was allocated to violations of the Portable Fuel Container regulations.

**TARGET CORPORATION FOUR CONSUMER PRODUCTS CASES - \$452,500 Settlement**

Between 2003 and 2008, Target sold over 16,000 gallons of non-complying automotive windshield washer fluid products at its stores in non-type A areas of California that exceeded the one percent VOC limit set under Consumer Products Regulation section 94509 parts (a) for the "Automotive Windshield Washer Fluid, All other areas" product category. Settlement discussions over the initial violations broke down after the discovery of documentation from the manufacturer that Target was made aware of the sales restrictions for these products several times, including shortly before Enforcement staff purchased the products. This documentation contradicted Target's initial assertions. Enforcement staff continued to find non-complying product available for sale at Target stores as late as January 2008.

Starting in May 2006, Target sold over 210,000 units of non-complying "reed diffuser" and "room spray" liquid air freshener products in California with sales continuing into 2008. These products were manufactured for Target by three different companies, primarily by factories in China, and the products did not comply with the 18% VOC limit or the product dating requirements. The majority of the reed diffuser air freshener products contained at least 80% VOC and consisted primarily of industrial solvents with limited quantities of fragrances.

Due to the large number of cases, the inconsistent information provided by Target, the ongoing nature of the violations, and the magnitude of the excess emissions, the cases were combined with the portable fuel container and small off-road engine violations and were referred by the Office of Legal Affairs to the Attorney General's Office. A civil complaint was filed in Sacramento County in October 2008. Target Corporation and the State of California agreed to a \$500,000 stipulated settlement which was executed by the County of Sacramento State Superior Court on October 6, 2009. Of the total amount, four hundred fifty two thousand and five hundred dollars (\$452,500) was allocated to the violations of the Consumer Products regulations.

**THE VALSPAR COMPANY CASE - \$218,000 Settlement**

Between August 2007 and August 2008, The Valspar Company supplied various sizes of Goof Off The Ultimate Remover that contained VOCs in excess of the 20% limit for general purpose adhesive removers, Goof Off Graffiti Remover that contained VOCs in excess of

the 50% limit for graffiti removers, and AFTA Adhesive Remover Cleaning Solvent that contained VOCs in excess of the 4% limit for general purpose degreasers to California. The Goof Off product line has since been reformulated to meet ARB's VOC limits. In addition, The Valspar Corporation no longer supplies the AFTA product line to California. The case was settled on August 18, 2009 for \$218,000.

### **FUELS CASES**

#### **BP WEST COAST PRODUCTS LLC - \$1,098,000 Settlement**

The Air Resources Board negotiated a settlement with BP West Coast Products LLC for 14 cases covering violations committed during 2005 and 2006.

On January 7, 2005, BP began discharging CARBOB from marine vessel 550-3. A correct final notification was not received until January 24, 2005, after the start of physical transfer of the fuel. This violation has been settled for \$20,000.

Routine sampling of CARBOB from the marine vessel 550-3 on January 7, 2005, found that eight compartments had Reid vapor pressures (RVP) lower than the minimum value of 8.90 pounds per square inch (psi) specified in the predictive model. This violation has been settled for \$20,000.

On January 25, 2005, during routine sampling of CARBOB on the marine vessel ITB Baltimore, showed that nine compartments had RVPs lower than the minimum value of 8.77 psi specified in the predictive model. This violation has been settled for \$20,000.

On March 9, 2005, we obtained a retain sample of CARBOB from the BP Carson refinery which had a lower RVP than specified in the predictive model. On March 10, 2005, we obtained fifteen additional retain samples from the Carson refinery, eleven of which had RVPs lower than the minimum values specified in their predictive models. These violations have been settled for \$210,000.

On June 16, 2005, BP began discharging an import of CARBOB from marine vessel 550-3. A correct final notification was not received until August 22, 2005, after the start of physical transfer of the fuel. This violation has been settled for \$10,000.

Between July 1, 2005, and August 3, 2005, BP dispensed 443,000 gallons of premium gasoline from Lane 3 at their East Hynes terminal without deposit control additive. These 22 violations have been settled for \$440,000.

On July 23, 2005, BP transferred CARBOB from their Carson refinery to their Vinvale terminal. On July 25, 2005, BP discovered that the fuel in Tank 41 had an olefin content of 6.4 volume percent, which exceeded the submitted predictive model specification of 4.5 volume percent. This violation has been settled for \$30,000.

On August 8, 2005, during routine sampling, found that the aromatic hydrocarbon content of CARBOB in Tank 50 at BP's Carson refinery was 24.4 volume percent, which exceeded the predictive model specification of 22.4 volume percent. This violation has been settled for \$30,000.

November 16, 2005, during routine sampling at BP's Carson refinery found that the CARBOB in Tank 50 had an RVP of 8.31 psi, which was less than the minimum of 8.56 psi specified in their predictive model for this batch. The aromatic hydrocarbon content of this sample was 24.4 volume percent, which exceeded the maximum of 22.6 volume percent specified in the predictive model. These violations were settled for \$21,000 each.

On November 17, 2005, during routine testing of a retain sample taken and obtained on October 24, 2005, from BP's Carson refinery found that the regular CARBOB in Tank 55 had an RVP of 7.54 psi, which was less than the minimum of 7.81 psi specified in the predictive model for this batch. This violation was settled for \$21,000.

On December 18, 2005, BP submitted a predictive model notification for Batch 050776 of CARBOB, specifying a maximum aromatic hydrocarbon limit of 20.3 volume percent. The actual aromatic hydrocarbon content was 22.7 volume percent, which exceeded the value specified in the predictive model. This violation has been settled for \$30,000.

On April 25, 2006, BP supplied from its Bloomington terminal a load of gasoline containing 21 percent ethanol that was delivered to a service station in Rancho Cucamonga. This violation has been settled for \$3,000.

On August 31, 2006, during routine sampling at the BP Carson refinery found the CARBOB in Tank 54 to have an RVP of 6.0 psi, above the maximum of 5.54 psi specified in the predictive model. This case has been settled for \$70,000.

On October 18, 2006, during routine sampling found that the CARBOB in Tank 42 at BP's Carson refinery had an RVP of 9.56 psi, which was less than the predictive model minimum specification of 9.83 psi. Analysis of a retain sample from Tank 53 showed an RVP of 6 psi, which exceeded the predictive model maximum specification of 5.76 psi. These violations have been settled for \$52,000

On October 30, 2006, BP shipped 3000 barrels of uncertified CARBOB from Tank 41 at their Carson refinery to their East Hynes terminal. The fuel in Tank 41 did not meet the predictive model formulation of the previous blend and they had not submitted a new predictive model. This violation has been settled for \$20,000.

On November 25, 2006, BP transferred diesel fuel from their Carson refinery to their Vinvale and East Hynes terminals; the diesel fuel had a sulfur content of 27 parts per million. This violation has been settled for \$80,000.

The total settlement amount for these 14 cases was \$1,098,000.

#### **EXXON MOBIL CORPORATION - \$35,000 Settlement**

On May 2, 2008, Exxon Mobil Torrance Refinery produced a batch of California reformulated blendstock for oxygen blending—CARBOB—with an ethanol limit specified in its alternative formulation of 5.7 percent volume. On May 12, 2008, Exxon Mobil advised Air Resources Board staff that the actual ethanol content of the final blend was 7.7 percent volume, which failed to conform to the certified alternative formulation. The California Code of Regulations Title 13, Section 2265 (b)(1)(C) prohibits the sale, offer for sale, supply, or



offer for supply of any California reformulated gasoline from a production or importation facility unless it conforms with the alternative formulation specified in its certification. This case settled on August 17, 2009 for \$35,000.

**EXXON MOBIL CORPORATION- \$90,000 Settlement**

On November 13, 2005, ExxonMobil Torrance Refinery produced a batch of CARBOB specifying on their predictive model notification an aromatics maximum of 20.0 volume percent. On November 17, 2005, Air Resources Board's (ARB) staff obtained a sample of premium CARBOB from the ExxonMobil Torrance Refinery. The fuel sample was analyzed for aromatic hydrocarbon content by ARB's Monitoring and Laboratory Division. The analysis showed the aromatics content of 21.7 volume percent, which was greater than the maximum of 20.0 volume percent specified in the predictive model.

On November 17, 2005, ARB staff returned to ExxonMobil Torrance Refinery and obtained another sample of CARBOB. The fuel sample was again analyzed for aromatics content. The analysis showed that the aromatics content was 21.6 volume percent, which was greater than the maximum value of 20.0 volume percent specified in the predictive model notification. These cases settled on January 14, 2009 for \$90,000.

***Appendix C***  
**Mobile Source Enforcement**  
**Program and Inspection Activities – 2009**

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

Number of Inspections	19,538
Number of Violations	265
Failure Rate	1%
Appeals Received/Closed	16/11
Number of Violations Rescinded	2
<b>Violations Closed*</b>	<b>299</b>
<b>Current HDVIP II Penalties Collected</b>	<b>\$55,650</b>
Number of Violations HDVIP I/II Pending	1,745
<b>Total HDVIP Violations Closed</b>	<b>662*</b>
<b>Total HDVIP Penalties Collected</b>	<b>\$273,773</b>

\*Includes violations pending from previous years. The 662 violations closed includes the delinquent violations closed shown in Table C-2.

**Table C-2**  
**Delinquent Citations/Collections**

<b>Delinquent Violations Closed</b>	<b>359</b>
<b>Delinquent Penalties Collected</b>	<b>\$218,123</b>
Trucks Held under VC 27159 by CHP**	60
Judgments Obtained under HSC 44011.6	56
CADMV VC 4755 Registration Holds	387

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

**Table C-3**  
**Smoking Vehicle Complaint Program**

Letters Sent	5,233
Responses Received	543
<b>Response Rate</b>	<b>10%</b>

**Table C-4**  
**School Bus ATCM Enforcement and Outreach**

School Bus Spot Checks/Inspections	6
Notices of Violation	3
Non-Compliance Rate	50%
<b>Notices of Violation Closed</b>	<b>3</b>
<b>Penalties Collected</b>	<b>\$300</b>
Complaints Received	2
Advisory Letters Sent	2

**Table C-5**  
**Commercial Idling Enforcement and Complaint Program**

Commercial Vehicle Spot Checks/Inspections Sleeper-Berth	8,347
Commercial Vehicle Spot Checks/Inspections Non-Sleeper-Berth	1,294
Total Spot Checks/Inspections	9,641
Sleeper-Berth Citations	1,337
Non-Sleeper-Berth Citations	137
Total Citations	1,474
Non-Compliance Rate	7%
<b>Citations Closed</b>	<b>996</b>
<b>Penalties Collected</b>	<b>\$298,700</b>
Complaints Received	70
Advisory Letters Sent	70
Responses Received	29
Response Rate	41%

**Table C-6**  
**Certificate of Non-Compliance (49-State Vehicle) Program**

Certificates Received	768
Certificates Reviewed	173
Cases Opened	37
<b>Cases Closed</b>	<b>78</b>
<b>Penalties Collected</b>	<b>\$78,300</b>

**Table C-7**  
**Administrative Hearings\***

Number of Cases	16
<b>Number Closed</b>	<b>15</b>
Number Pending	5
<b>Settled</b>	<b>12</b>

\*HDVIP/ECL Program

**Table C-8**  
**Environmental Justice Inspections\***

Inspection days	282
Inspections*	11,622
Violations*	1,430

\*The data reflects multiple programs. Inspections are conducted at major supply ports in Los Angeles, Oakland, San Bernardino and other EJ Areas within California.

**Table C-9**  
**Public Agency Utility Enforcement**

Inspections	55
NOVs Issued	12
NOVs Rescinded	2
<b>Total Violations</b>	<b>10</b>
<b>NOVs Cleared</b>	<b>11</b>
NOVs Pending	37*
<b>Penalties Collected</b>	<b>\$2,400</b>

\*Includes Citations from previous years.

**Table C-10**  
**Emission Control Label Enforcement**  
**Grace Period Program - Ended February 14, 2008**

Citations Cleared	106
Citations Rescinded	3
Citations Pending	424

The ARB began issuing Citations to vehicles that did not have an emission label present in the engine compartment area, or the label was illegible. Proof of correction was required to clear the citation without penalty. This chart provides data on outstanding citations prior to February 14, 2008.

**Table C-10(a)**  
**Emission Control Label Enforcement**  
**Full Penalty Phase Program - Effective February 15, 2008**

Inspections	19,582
Citations Issued	1,420
<b>Citations Cleared</b>	<b>1,133</b>
Citations Rescinded	24
Citations Pending	797*
<b>Penalties Collected</b>	<b>\$341,520</b>

\*Includes Citations from previous years.

**Table C-11**  
**Transport Refrigeration Unit Program**

Inspections	1,347
Citations Issued	453
<b>Citations Cleared</b>	<b>104</b>
Citations Rescinded	17
Citations Pending	332
Failure Rate	32.4%
<b>Total Penalties Collected</b>	<b>\$55,435</b>

\*See table E-9 for port and ship TRU inspections. 3659 TRU inspections were conducted ARB-wide in 2009.

**Table C-12**  
**In-Use Off-Road Diesel Vehicle Program**

Inspections	10 <sup>*</sup>
Citations Issued	10
<b>Citations Cleared</b>	<b>5</b>
Citations Rescinded	0
Citations Pending	5
Failure Rate	100% <sup>*</sup>
<b>Total Penalties Collected</b>	<b>\$1,500</b>

Since only inspections with potential violations were documented in 2009, the 100% failure rate is not representative of compliance level.

**Table C-13**  
**Solid Waste Collection Vehicle Program**

Inspections	582
NOVs Issued	100
<b>NOVs Cleared</b>	<b>86</b>
NOVs Rescinded	9
NOVs Pending	183 <sup>*</sup>
Failure Rate	15%
<b>Total Penalties Collected</b>	<b>\$28,500</b>

<sup>\*</sup>Includes violations pending from previous years.

**Table C-14**  
**Carl Moyer Program and Proposition 1B Goods Movement**  
**Emission Reduction Program - Compliance Checks**

<b>Carl Moyer Compliance Checks*</b>	<b>2009</b>
Total Registered Owners/VINs Processed	466
Total Outstanding Violations	3

<b>Proposition 1B Compliance Checks*</b>	<b>2009</b>
Total Registered Owners/VINs Processed	6,130
Total Outstanding Violations	29

<sup>\*</sup>Checks include querying numerous databases: HEVI, SWCV, ECL, CVI, and SBI.

**Table C-15**  
**Diesel Fleet Closed Cases Summary**

<b>Type of Case</b>	<b>ACTIVE Cases</b>	<b>NFA or COMPLIANT Cases</b>	<b>SETTLED Cases</b>	<b>CLOSED Cases*</b>	<b>TOTAL Cases</b>	<b>Total Penalties Collected**</b>
CHE	0	0	1	1	1	\$35,625
ECL	0	0	0	0	0	\$1,514
ORDV	6	2	1	3	9	\$6,750
PAU	1	1	1	2	3	\$5,906
PSIP	177	59	96	155	332	\$2,291,082
SWCV	35	2	9	11	46	\$983,754
TFV	18	5	20	25	43	\$291,149
TRU	10	29	3	32	42	\$69,225
UB	1	3	0	3	4	\$7,500
VDECS	11	6	7	13	24	\$2,228,000
<b>Total #</b>	<b>259</b>	<b>107</b>	<b>138</b>	<b>245</b>	<b>504</b>	<b>\$5,920,505</b>

\* (NFA, Compliant, Settled)

\*\* The amounts shown in "Total Penalties Collected" are calculated according to the penalties collected per Enforcement Program ("Type of Case") and do not correlate directly with the number of cases settled ("Total Cases Settled"). Some cases are combined with others, but counted as only 1 case with penalty amounts applied to several different Enforcement Programs. Also, these penalties account for Superior Court judgments and, when applicable, remediation.

Example: An enforcement case is settled primarily as SWCV; therefore, it is counted as 1 'SWCV' case in the "Total Cases Settled", yet it has penalties that are applied to several different enforcement programs (SWCV, PSIP, ECL, & VDECS). In this example you would see one settled case (SWCV) and Penalties collected under four different "Types of Case" (SWCV, PSIP, ECL and VDECS). This is the reason why you may see penalty amounts listed for a "Type of Case" but show no Closed cases for that venue.

<b>ACRONYMS - ENFORCEMENT PROGRAM</b>	
<b>CHE</b>	Cargo Handling Equipment
<b>ECL</b>	Emission Control Label
<b>NFA</b>	"No Further Action"
<b>ORDV</b>	Off-Road Diesel Vehicle
<b>PAU</b>	Public Agency/Utility
<b>PSIP</b>	Periodic Smoke Inspection Program
<b>SWCV</b>	Solid Waste Collection Vehicle
<b>TFV</b>	Transit Fleet Vehicle
<b>TRU</b>	Transport Refrigeration Units
<b>UB</b>	Urban Bus
<b>VDECS</b>	Verified Diesel Emission Control System

**Table C-16**  
**2009 Mobile Source Enforcement Actions\***

**I. General Mobile Source Programs**

<b>Mobile Source Programs</b>	<b>Cases Closed</b>	<b>Penalties</b>
Aftermarket Parts	11	\$302,000
Cars & Motorcycles**	93	\$206,198
LSI	1	\$50
OBD	1	\$4,400,000
OHRV	93	\$1,032,785
SORE	17	\$260,884
Tampering (Used Cars)	2	\$3,000
<b>Total</b>	<b>218</b>	<b>\$6,204,917</b>

\*Many of these enforcement actions in Table C-16 are joint ED/MSCD/MSOD/SSD/OLA enforcement actions

\*\*Motorcycles account for 11 of these 93 cases and \$132,098 of the \$206,198

**II. In-Use Diesel Programs**

<b>In-Use Diesel Programs</b>	<b>Cases Closed</b>	<b>Penalties</b>
<b>A. Diesel Programs (see Table C-15)</b>	245	\$5,920,505
<b>B. Diesel Field Inspections</b>	<b>Citations Closed</b>	
HDVIP	662	\$273,773
SWCV	86	\$28,500
PAU	11	\$2,400
CVI	996	\$298,700
SBI	3	\$300
ECL	1239	\$341,520
TRU	104	\$55,435
OFF-ROAD	5	\$1,500
DELINQUENT CITATIONS	359	\$218,123
<b>Total</b>	3465	\$1,220,251
<b>TOTAL A&amp;B above</b>	<b>3710</b>	<b>\$7,140,756</b>

**III. 2009 Mobile Source Enforcement Actions Totals (I & II above)**

<b>Cases/Citations Closed</b>	<b>Penalties</b>
<b>3928</b>	<b>\$13,345,673</b>



***Appendix D*****Fuels and Consumer Products Enforcement  
Inspection Activities – 2009****Table D-1**  
**Consumer Products Inspections and Samples**

Samples Obtained	1,532
Lab Results Received	1,791
Alleged Violations	730
NOVs Issued	77

**Table D-2**  
**Portable Fuel Containers and Spouts**

Samples Obtained	13
Alleged Violations	13
Notices of Violation Issued	10

**Table D-3**  
**Cargo Tank Vapor Recovery Certification**

Cargo Tanks Inspected	1,563
Cargo Tanks Tested	1,020
Cargo Tanks Certified	5,461
Pressure Violations (nitrogen test)	69
Uncertified Equipment Violations	5
Liquid Leak Violations	7
Annual Tests Observed	208

**Table D-4**  
**Motor Fuel Inspection Summary**

Samples	2,567
Analyses	20,662
Reid vapor pressure	1,867
Lead	14
Sulfur (gasoline & diesel fuel)	2,302
Oxygen	2,200
MTBE, Ethanol	2,210
Benzene	2,143
Total aromatics	2,143
Olefin	2,146
Distillation, T50	2,152
Distillation, T90	2,152
Aromatic hydrocarbon (diesel fuel)	603
PAH (diesel fuel)	603
Nitrogen (diesel fuel)	137

**Table D-5**  
**Gallons Represented in Sampling**

Gasoline	1,509,890,000
Diesel	415,033,000

**Table D-6**  
**BOE Dyed Diesel Program \***

Inspections	18,202
Violations	22

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

***Appendix E*****Stationary Source Enforcement and  
Air District Oversight Activity – 2009****Table E-1**  
**Hotline Complaint Activities**

Total Complaints and Inquiries Received	951
- Stationary Source Complaints to Districts	148
- Vapor Recovery Complaints to Districts	85
- Questions Answered by Enforcement	203
- Referred to Other ARB Divisions	37
- Referred to Other Agencies	478
Air District Investigation Reports Reviewed	182

**Table E-2**  
**Variance Activity**

Variances Reviewed	494
Notices Reviewed	494
Variances Questioned	93
Variances Returned	4
Issues Addressed	82
Workshops Conducted	2
Hearing Board Visits	1

**Table E-3**  
**Air Facility System Compliance Data**

Reports Received and Reviewed	81
Reports Entered	70
Issues Addressed	291
Reports Sent to Air Districts	181

**Table E-4**  
**Air Facility System High Priority Violators**

Reports Received	45
Reports Entered	33
Issues Addressed	241
Reports Sent to Districts	279

**Table E-5**  
**Continuous Emissions Monitoring Program Activity**

Total Reports Received & Entered	681
NO <sub>x</sub>	332
SO <sub>2</sub>	51
H <sub>2</sub> S	61
CO	167
Opacity	60
CO <sub>2</sub>	3
NH <sub>3</sub>	4
PM	3

**Table E-6**  
**Air District Rule Review**

Rules Received	142
Rules Reviewed	142
Rules with Formal Comments	8

**Table E-7**  
**Complaint Investigations and U.S. EPA CEM Reporting**

Investigations/Inspections	1
Requests for Assistance	8
Special Projects completed	4
Hotline Complaint Follow-up Investigations	9
CEM 105 Grant Reports Received from Sources	195
CEM 105 Reports sent to U. S. EPA	215

**Table E-8: SEIES 2009 Activities Summary**

<b>TYPE OF ACTIVITY</b>	<b>TOTAL</b>
<b>Total SEIES Settlement Amounts*</b>	<b>\$38,825</b>
Continuing Investigations	8
New Investigations	9
SEIES Cases Closed	9
Cases Referred for Investigation	0
Cases Referred for Prosecution	7
Continuing Prosecution	2
Case Settlement/Prosecution	1
Investigative Assistance	5
Continuing Surveillance	6
New Surveillance	9
Surveillance Closed	11
Stationary Source Inspections (non-PERP)	26
Portable Equipment (PERP) Inspections	105
Locomotive Railroad MOU Inspections	3,240
Off-site Railroad Inspections	9
Rail Facilities Inspected	32
RR MOU NOVs Issued	22
RR MOU NTCs Issued	30
RR Penalties Collected	\$3,200
Ship Incineration Inspections	134
Ocean Going Vessel Fuel Inspections	134
OGV NOVs	7
Fuel Dock/Marina Fuel Inspections	27
Transport Refrigeration Inspections	2,312
Cargo Handling Equipment Inspections	603
CHE Penalties Collected	\$35,625
Dry Cleaner Verification Inspections	5
Asbestos Notifications Received	1,157
Asbestos Inspections	80
Asbestos Complaint Investigations	6
Asbestos Inquiries Handled	697
Asbestos Workshops Presented	2
Composite Wood Inspections	69
Commercial Harbor Craft inspections	113
Task Force Meetings Attended	42
Rule Development Support	2
Special Projects	3

\* Cases closed by air districts and US EPA are not included.

**Appendix F**  
**Compliance Training and Assistance Programs - 2009**

**Table F-1**  
**Programs and Attendance**

<b>Classes and Programs</b>	<b>Number of Courses</b>	<b>Total Students</b>
UAQTP* 100 Series (California) (4 days)	3	76
Air Academy On-line (California)	---	203
Air Academy (California) (1 day)	1	115
Other 100 Series Courses	61	2,705
200 Series (California)	31	550
Cal/EPA Basic Instructor Academy (4 days)	8	226
Other 300 Series Courses	13	351
500 Series (California)	53	1,463
California Totals	170	5,689
National Totals	63	1,636
Webcast	42	1,825
<b>Overall Totals</b>	<b>275</b>	<b>9,150</b>

\* Uniform Air Quality Training Program

**Table F-2**  
**500 Series Courses**

<b><u>Course #</u></b>	<b><u>Title</u></b>	<b><u>Participants</u></b>
501	Stationary Diesel ATCM	106
502	Portable Equipment ATCM	187
504	In-Use Off-Road	397
507	Transportation Refrigeration Units	93
510	Diesel Idling Enforcement	134
511	Diesel Exhaust After-treatment Devices	165
512	Diesel Vehicle Regulation Overview	381
	<b>Total</b>	<b>1,463</b>

**Table F-3**  
**Web Casting Totals**

January 1, 2009 to December 31, 2009	Total Students Taught in CA	9,150
	Total Courses	275
	Webcast Capable Courses	42
	Webcast Students	1,825
	Average Webcast Students per Course	44

**Table F-4**  
**Top Five Hardcopy Materials Distributed 2009**

<b>Rank</b>	<b>CDs</b>	<b>Handbooks</b>	<b>Pamphlets</b>
<b>1</b>	Vapor Recovery	Wood Burning Handbook	Commercial Heavy-Duty Vehicle Idling Emission Reduction Program
<b>2</b>	Chrome Plating & Anodizing Operations	Vapor Recovery Calendars	Periodic Smoke Inspection Program
<b>3</b>	Boilers	In-Station Diagnostic Booklet	Heavy Duty Vehicle Inspection Program
<b>4</b>	Dry Cleaning Operations	Asbestos Demolition/Renovation	Periodic Smoke Inspection Program
<b>5</b>	Continuous Emissions Monitors	Dry Cleaning Industry (Korean)	Transport Refrigeration Units #2 ATCM Owner/Operator (English.)

**Table F-5**  
**Top Five Webpage Views Total 2009**

<b>Rank</b>	<b>CDs</b>	<b>Handbooks</b>	<b>Pamphlets</b>
<b>1</b>	Ambient Air Monitoring	Wood Burning Handbook	Enhanced Vapor Recovery (EVR) Program
<b>2</b>	Boilers	Visible Emissions Evaluation	Training & Compliance Assistance Program
<b>3</b>	Health & Safety	ISD Booklet	Asbestos-Containing Rock & Soil: Homeowner's
<b>4</b>	Gas Turbines	Fugitive Dust Control	Transport Refrigeration Units #1 ATCM Overview (Spanish)
<b>5</b>	Stationary Reciprocating Engines	Vapor Recovery Calendars	Limits on Diesel-Fueled Commercial Motor Vehicle Idling



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

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

**Division Contacts:**

<b>Chief</b> , Enforcement Division	James R. Ryden	(916) 324-7346
Division Secretary	Barbara Gregson	(916) 322-6033
Enforcement Database Coordinator	Reggie Guanlao	(916) 445-2815
Division Administrative Coordinator	Elizabeth Walker	(916) 322-2659
Enforcement Policy Coordinator	Elizabeth Miller	(916) 322-6212
Division FAX (Sacramento - HD Diesel Program)	-	(916) 322-8274
Division FAX (Sacramento - General Enforcement)	-	(916) 445-5745
Division FAX (El Monte - HD Diesel Program)	-	(626) 450-6170
Division FAX (El Monte - MS Enforcement Program)	-	(626) 350-6431

**Mobile Source Enforcement Contacts:**

<b>Chief</b> , Mobile Source Enforcement Branch	Paul E. Jacobs	(916) 322-7061
Environmental Justice and Enforcement Division Special Projects	Michelle Shultz Wood	(626) 459-4338
<b>Manager</b> , Mobile Source Enforcement Section	Gregory Binder	(626) 575-6843
Motorcycle Enforcement	Kerry Albert	(916) 323-2946
Marine and Personal Watercraft Enforcement	Erin Blanton	(916) 323-8420
OHRV, SORE, Aftermarket Parts Enforcement	Lisa Zarubick	(626) 350-6403
Hybrid, Diesel, Aftermarket Parts Enforcement	Martina Diaz	(626) 350-6576
Catalytic Converters, Aftermarket Parts Enforcement	Tony Zeng	(626) 350-6505
<b>Manager</b> , Heavy-Duty Diesel Enforcement Section – Off-Road Programs	Manfred Ochsner	(626) 350-6532
Drayage Truck Enforcement North	John Swanson	(916) 445-7602
Drayage Truck Enforcement South	Xiangyi Li	(626) 350-6506
TRU Enforcement South	Aldo Chaney	(626) 350-6577
TRU Enforcement North	Brad Penick	(916) 445-0799
VDECS Enforcement	Chris Patino	(626) 450-6173
VDECS Enforcement	Tajinder Gill	(626) 459-4304
Off-Road Construction Equipment	Eric Brown	(916) 323-0166
TRU Enforcement Statewide	Eusene (Claire) Kim Yi	(626) 350-6421
<b>Manager</b> , Heavy-Duty Diesel Enforcement Section – On-Road Programs	Les Simonson	(916) 322-6905
Periodic Smoke Inspection Program	Charles Ross	(626) 350-6438
Transit Fleets	Ann Stacy	(916) 324-7658

## 2009 ARB Report of Enforcement Activities

Solid Waste Collection Vehicles	Steve Binning	(916) 323-0724
Smart Way Technologies	Cathi Slaminski	(916) 323-1513
Public Agency Utility Rule and Large Spark Ignited Engines	Randy Rhondeau	(916) 323-0162
Truck and Bus Rule and CCDET Liaison	Wendy Maienknecht	(916) 445-0235
<b>Manager</b> , Heavy-Duty Diesel Enforcement Section – Field Operations and Citation Administration	Nancy O'Connor	(916) 322-8325
Field Supervisor – Northern California	Shaliendra Pratab	(916) 445-2049
Field Supervisor – Southern California	Ching Yang	(626) 350-6422
Field Supervisor – Border	Damacio Arevalos	(626) 350-6449
Citation Administration	Renae Hankins	(916) 322-8275
Citation Administration	Hortencia Mora	(626) 350-6950
Citation Administration	Gretchen Ratliff	(626) 350-6561
Citation Administration	Kristin Garcia	(626) 350-6554
<b><u>Stationary Source Enforcement Contacts:</u></b>		
<b>Chief</b> , Stationary Source Enforcement Branch	Mark Stover	(916) 322-2056
<b>Manager</b> , Fuels Enforcement Section	Steve Brisby	(916) 322-1210
<b>Manager</b> , Consumer Products Enforcement Section	Steve Giorgi	(916) 322-6965
CaRFG/Diesel Regulations Enforcement	Dickman Lum	(916) 327-1520
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 Inspections	Fred Schmidt	(916) 327-1522
Manager, Strategic Environmental Investigations and Enforcement Section	R.C. Smith	(916) 445-1295
Manager, Stationary Source Enforcement Section	Carl Brown	(916) 323-8417
Air Facility System (AFS) Full Compliance Evaluation (FCE) AFS High Priority Violations (HPV)	John McCormack	(916) 324-8020
Agricultural Burning Program	Ed Virgin	(916) 322-5866
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	Simeon Okoroike	(916) 327-3529
Variance Workshops	Vickie McGrath	(916) 324-7343
Variance Program	Ed Virgin	(916) 322-5866

## 2009 ARB Report of Enforcement Activities

### **Training and Compliance Assistance Contacts:**

<b>Chief</b> , Training and Compliance Assistance Branch	Mary Boyer	(916) 322-6037
Branch Registrar, Training and Compliance Assistance	Teresa Campos	(916) 322-3937
<b>Manager</b> , Compliance Training Section	Ben Sehgal	(916) 323-8412
<b>Manager</b> , Compliance Assistance Section	Mark Tavianini	(916) 327-0632
CAP Publications	Mark Tavianini	(916) 327-0632
FOE and VEE Program	Min Li	(916) 327-1168
<b>Greenhouse Gas Enforcement Manager:</b>	Judy Lewis	(916) 322-1879

### **Other Contacts:**

ARB OLA	Ellen M. Peter, Chief Counsel	(916) 322-2884
ARB Complaint Investigations	Simeon Okoroike	(916) 327-3529
<b>ARB Statewide Complaint Hotline</b>		<b>(800) 955-5567</b>
ARB Statewide Vehicle Complaint Hotline	(800)END- SMOG,or	(800) 363-7664
ARB ED Spanish Speaking Assistance	Hector Pelavo Hortencia Mora	(626) 575-6779 (626) 350-6590
Special Investigations/Collections	Jay Zincke	(916) 323-1608
Webmasters	Mary Rose Sullivan (916) 327-1523 Wendy Maienknecht	(916) 445-0235

All individuals listed above may be contacted via e-mail. Email addresses can be found at [www.arb.ca.gov](http://www.arb.ca.gov).