



California Air Resources Board
**Report of
Enforcement Activities**

for

January 1 - December 31, 2001

July 2002

California Air Resources Board
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Preface

Violations of California's air quality laws and regulations span a wide gamut that extends from deliberate, criminal actions through serious, albeit accidental infractions, to nominal breaches of the state's statutes or regulations. And while varying degrees of pollution are created by way of these violations, what remains constant in each is the unfair economic disadvantage suffered by those members of the industries that do comply. To address these varying degrees of violation and their effects on the state's health and economic welfare, the Enforcement Division of the Air Resources Board (ARB, Board) has adopted as its mission statement:

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

To meet the challenges that this mission imparts, the Enforcement Division (ED) continually delves into new and diverse areas of investigation. During the past year we've pursued and settled a major case wherein a trash hauling fleet was not performing an annual smoke opacity inspection on each of its vehicles (required under the ARB's Periodic Smoke Inspection Program -- PSIP). These vehicles traditionally travel in heavily populated areas, and thus the risk of human exposure to the toxic particulate matter emitted from the smoking trucks is of great concern. This enforcement action has raised industry awareness of the ARB's program, and has had a deterrent effect on fleets of this type.

A further area of concern within the ARB, and with a special role in the Enforcement Division is the question of Environmental Justice. In December 2001, the Board adopted staff's recommendations for a set of specific policies and actions to ensure that the ARB's regulations and programs include consideration of the impacts of air pollution on communities and the integration of environmental justice concerns into the agency's programs. For the past several years, the ED has been supporting inspection events in areas where residential communities bump up against industrial areas. In these neighborhoods, heavy-duty vehicle traffic is prevalent, and the inspection events provide an opportunity for federal, state and local law enforcement to work cooperatively to root out violations of health and safety regulations, including excess smoke emissions, illegal transport of hazardous wastes and other safety concerns. The Enforcement Division has also assisted in the Environmental Justice arena by supplying investigative and surveillance support to local air districts that are diligently working to ensure neighborhoods that are safe from criteria and toxic air pollutants.

The diverse and extensive nature of the ED's caseload requires diligent management of an inordinate number of details. In the past, each different enforcement program maintained a separate database of case information, as did the Board's Office of Legal Affairs (OLA), with whom we work hand in hand. In October 2001, the Enforcement Division was fortunate to acquire a staff person dedicated to integrating the various databases into a single case-tracking system. The goal is to allow the appropriate staff to perform updates to the system, as well as allowing management to view the details of any case. The ultimate goal is to provide a system that can be shared with OLA, and eventually with the

Deputy Secretary for Law Enforcement and Counsel within the California Environmental Protection Agency.

In 2002, the ED's work will include a review of fuel violations penalty policies for fairness and consistency, the development of regulations that allow for administrative penalties where currently the only method of appeal is through the court system (this authority was granted under Senate Bill 527, Sher) and the division will work cooperatively with local air districts to develop a standard operating protocol by which the State and local agencies will respond to public air quality complaints. Additionally, in response to the Board's adoption in December 2001 of suggested minimum civil penalties for petroleum refinery violations levied by local air districts, the ARB will work in close consultation with the California Air Pollution Control Officers' Association (CAPCOA) to develop similar measures and review enforcement policies for other source categories – including chrome plating facilities and power plants.

In each of these as in all of our day-to-day operations, the Enforcement Division will continue to work to provide a level playing field for the regulated community, and to strive to ensure that the ARB's regulations provide the clean, healthful air for all members of California's community.

Introduction

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

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

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

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

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

For more information on the ARB's Enforcement Division or its programs, please contact Paul E. Jacobs, Acting Chief, at (916) 322-7061 or pjacobs@arb.ca.gov. For questions or comments relating to this report, please contact Elizabeth F. Miller, Special Enforcement Projects Coordinator at (916) 323-8541 or efmiller@arb.ca.gov. Questions relating to specific program areas may be directed to the appropriate section or branch manager, listed on the contact sheet found in Appendix F. Please also refer to the Enforcement Division's web page, located at the following link: <http://www.arb.ca.gov/enf/enf.htm>.

Mobile Source Enforcement

California has long been a world leader in combating air pollution emitted from motor vehicles and other mobile sources. Because of the state's severe air quality problems, California was granted a waiver from the Federal Clean Air Act requirements that allows the ARB to set its own motor vehicle emission standards. This has resulted in an aggressive program that affects millions of sources ranging from heavy-duty diesel trucks, to passenger cars, to motorcycles, jet skis, and even lawn mowers and chain saws.

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

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

Heavy-Duty Diesel Vehicle Enforcement

Program Overview

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

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

The HDVIP is administered by field inspection staff who perform smoke opacity tests at CHP weigh stations, random roadside locations, fleet locations, and at two California/Mexico border ports of entry (Otay Mesa and Calexico). To conduct a smoke opacity inspection, the ARB inspector selects a vehicle for testing based on a visual assessment of its exhaust opacity. With the assistance of the CHP, the vehicle is directed to the inspection area, and with the wheels chocked for safety and the transmission in neutral, the driver rapidly depresses the accelerator while an opacity meter evaluates the resulting plume of smoky exhaust. (The test protocol, SAE J1667, was developed by the Society of Automotive Engineers specifically for this type of program.) If the smoke opacity exceeds California's standards of 55% for older vehicles and 40% for those manufactured in 1991 or later years, the driver is issued a citation. Citations carry a civil penalty of \$800 for the

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

The companion PSIP requires that California fleet owners of two or more heavy-duty diesel vehicles perform an annual smoke inspection on each of their vehicles. (Vehicles with new – not rebuilt – engines that are less than four years old are exempt from annual testing.) Fleet owners are required to maintain their records for two years, and the ARB staff perform follow-up inquiries to assure that the requirements are being fulfilled (i.e., staff request to see copies of smoke test results, demonstrations of correction, etc.) Fleet owners may be audited to ensure compliance with the PSIP. Owners who have not performed the annual inspections will have their vehicles tested; citations are issued for those vehicles that exceed opacity standards.

Program News

Focused Environmental Inspections – The ARB has participated in an on-going program of multi-environmental media vehicle inspections in mixed residential/industrial locations. During these events, inspection personnel from a variety of agencies (e.g., CHP, U.S. Coast Guard, Department of Toxic Substances Control, local law enforcement and hazardous materials agencies, Internal Revenue Service, etc.) assemble to examine vehicles passing through these neighborhoods to detect violations of air quality regulations, illegal transport of hazardous wastes, illegal use of tax-exempt red diesel fuel, safety concerns, and other related issues. Regrettably, because the events of September 11, 2001 limited the availability of the CHP officers required to assist in these events, only a few of these inspections occurred in the latter part of 2001.

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

With the forthcoming implementation of the North American Free Trade Agreement (NAFTA), it is crucial to ensure that the vehicles travelling back and forth across the border do not adversely impact air quality in either California or Mexico. The ARB maintains full-time HDVIP inspection sites at both Otay Mesa and Calexico. (Note that full-time inspections at Calexico were initiated in 2001.) The ARB met with representatives of the federal government's General Accounting Office to discuss programs currently in place that help to mitigate environmental and safety concerns related to NAFTA. The ARB also participates in monthly conference calls with the Northeast States for Coordinated Air Use Management and the Ontario, Canada-based

Commission for Environmental Cooperation. This group intends to sponsor a conference in March of 2002 to consider coordination issues for heavy-duty vehicle smoke emissions programs for the three North American countries.

CCDET – It is important that individuals or firms that perform smoke opacity testing related to the ARB's HDVIP and PSIP, have a clear understanding of the programs' regulations and be able to correctly administer the SAE J1667 opacity test. To this end, the California Council on Diesel Education and Technology (CCDET) was established as a partnership between the ARB, the diesel trucking industry, and the California Community Colleges. There are currently 6 colleges within California (College of Alameda, San Joaquin Delta College, Santa Ana College, Los Angeles Trade Tech., Palomar College, and San Diego Miramar College) that offer low-cost training in the proper application of SAE J1667, as well as some smoke-related engine repairs and maintenance practices. There were 6 CCDET classes offered in 2001.

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

Other items of interest –

- The ARB has worked with the CHP during the year to establish policies and procedures to enforce the portion of the HDVIP regulation that allows the CHP to remove a heavy-duty vehicle from service when a recalcitrant vehicle owner fails repair an excessively smoking vehicle and clear a citation or notice of violation. This authority is granted to the CHP under the California Vehicle Code, § 27159.
- In an on-going effort to provide the regulated community with current, accessible information regarding the smoke inspection programs, the ARB produced, in consultation with the California Polytechnic Institute, Pomona, an outreach video that details the HDVIP, its operation and its benefits to air quality and fuel conservation. This video replaces an earlier production, and represents the latest relevant information.

General Mobile Source Enforcement

Program Overview

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

For on-road sources, the primary focus of enforcement is to ensure that all new vehicles distributed in California are certified for sale in the state. Under California's regulations, a new vehicle – defined as a vehicle that has fewer than 7,500 odometer miles, that is not certified to California's standards cannot be sold within or imported into the state. If such a vehicle visits a Smog Check station, the owner is issued a Notice of Noncompliance (NoN) and a copy of the NoN is sent to the ARB. If the NoN is issued to a dealer or fleet, an ARB field inspector will make a follow-up visit to the dealership or fleet and issue a Notice of Violation. The NOV requires that the vehicle(s) be removed from the state along with a civil penalty of up to \$5000 per vehicle.

Recently, an important area of focus for enforcement resources has been in the non-road categories. This includes off-road motorcycles and all terrain vehicles, Small Off-Road Engines (SORE) such as lawn and garden equipment - scooters - generators, Large Spark Ignition engines (LSI) which include fork lifts - sweepers - quads - generators, and Compression Ignition engines over 175bhp which include generators and construction equipment. This investment of enforcement resources in newly regulated areas such as many of the non-road categories is critical to establish program credibility.

Program News

Aftermarket Parts Outreach – Staff continues to develop a positive working relationship with the Specialty Equipment Marketing Association (SEMA). These efforts help to ensure that aftermarket parts sold for use in California do not adversely affect emissions or emissions control systems. Mobile source enforcement staff supported information booths at both the worldwide SEMA show in Las Vegas in October 2001 and at the International Auto Salon, which is a trade show for import vehicles and parts held in Long Beach in March 2001.

Street Racing Enforcement Assistance -- Mobile source enforcement staff have provided assistance to state and local law enforcement in their efforts to eradicate street racing. Often the vehicles involved in these unlawful activities are equipped with illegal engine modifications and aftermarket parts. As these types of modifications can cost thousands of dollars, citing the vehicle owners for tampering (under Vehicle Code section 27156) has proven to be a powerful deterrent because the owner must show that the offending equipment has been removed, in addition to paying the related penalties. The ARB staff assist peace officers in writing solid tampering citations that will support successful enforcement actions.

Small Off-Road Engines (SORE) Off-Highway Vehicles (OHV) -- SOREs and OHVs (which include off-road motorcycles and all-terrain vehicles) received additional enforcement efforts during 2001. Mobile source enforcement staff continued to expand their enforcement program to include illegal lawn mowers, trimmers, generators, scooters, and other SORE products, and a number of cases were opened. In addition to these activities, staff supported the Mobile Source Operations Division with factory audits and Title 13 confirmatory testing at SORE manufacturing facilities. Staff also initiated enforcement actions to ensure that all off-road motorcycle manufacturers and dealers introduce and sell only products that meet California certification requirements.

Aftermarket Catalysts on On-Board Diagnostics II (OBD II) Vehicles – Staff initiated an ongoing investigation program of muffler shops that install aftermarket catalytic converters (catalysts) on OBDII vehicles. Currently, there are no exempt aftermarket catalysts for OBDII applications, and enforcement actions have been initiated against shops that install illegal catalysts, with 3 cases opened in 2001.

Non-Certified Motorcycles and Emission Control Tampering by Dealers – Investigations have been completed against eight manufacturers of non-California certified “Harley clone” motorcycles. The Attorney General finalized a \$400K settlement with the Ultra Corporation, and three other cases are currently under litigation. Settlement negotiations continue with the other four, and additional large-scale investigations of two California retailers that removed emissions control equipment on new motorcycles prior to sale, have been completed. Due to the egregious nature of these violations, both have been referred directly to the Attorney General.

Fuels Enforcement

Program Overview

The ARB is authorized to adopt regulations governing the emission characteristics of motor vehicle fuels. The Board’s fuels program has resulted in the development of cleaner-burning gasoline and diesel fuels, as well as setting specifications for alternative fuels such as compressed natural gas, liquid propane gas, methanol-gasoline blends. The ARB’s fuels regulations allow for fuels to meet the standards in many ways. This gives refineries a great deal of flexibility in their production methods. Compliance options include the use of predictive models, certified alternative fuels, or an average standard. Regulated specifications that may be violated are: Reid vapor pressure; sulfur, lead, phosphorus, manganese, deposit control additives, benzene, olefins and oxygen content; total aromatics; distillation temperature; and aromatic hydrocarbon and polynuclear aromatic hydrocarbon content (diesel fuel only.)

The Fuels Enforcement Section is responsible for ensuring that motor vehicle fuels meet the standards established in California’s fuels regulations throughout the distribution chain – from refiner to distributor (including import sites) to point of sale. To accomplish this, ARB inspectors travel throughout California, collect fuel samples at refineries, distribution and storage facilities, and at retail outlets and other points of sale. These samples are analyzed at ARB’s laboratory in El Monte, California, or in ARB’s mobile fuel laboratory. As violations are uncovered (through these inspections or when the industry self-reports infringements) cases are developed. Most cases are settled in-house or with assistance from the Office of Legal Affairs. Matters that cannot be settled are referred to the Office of the Attorney General, a local District Attorney or the U.S. Attorney’s Office.

The Fuels Enforcement Section also inspects fuel delivery cargo tanks to ensure that there are no emission leaks in any part of the system. The cargo tank owners are required to have their tanks tested annually to demonstrate that they meet a leak-rate standard, and submit their results to the ARB for review. Many of these inspections are performed by independent testing companies, which are subject to audit by ARB.

The Fuels Enforcement Section is in the process of developing test methods to accommodate inspections of alternative fuels such as compressed natural gas, liquid propane gas and hydrogen.

Program News

Fuels Distributor Certification Program – The motor vehicle fuel distributor certification program, established by Health and Safety Code § 43025, requires that all persons who refine, blend or otherwise produce motor fuel provide to the ARB the location of all records pertaining to the production, purchase and delivery of motor vehicle fuel. These requirements allow for the investigation of potential violations of fuel specification requirements.

New Mobile Fuel Analysis Laboratory – Successful operation of the field fuels audit program, that enables ARB to identify non-complying fuel before it is offered for sale, is dependant on expeditious and accurate testing of the samples obtained. To accommodate this process, the ARB has maintained a mobile laboratory, outfitted with state of the art testing equipment since 1987. The mobile laboratory is housed in a 1973 vintage 40-foot bus, formerly owned by Greyhound, Inc., which has logged over 1.5 million miles. In late 2001, a new bus was purchased, and the process to outfit it with existing and new testing apparatus -- including equipment to analyze alternative fuels – is underway. It is anticipated that this vehicle will be put into use in July 2002.

Reformulated Gasoline Phase III (Ethanol) Training – As California phases out its use of methyl tertiary butyl ether (MTBE) in gasoline, the petroleum industry faces a series of challenges as it develops the infrastructure to distribute and blend ethanol into its products. The ARB staff has been working with the industry to provide training to ease this transition. Areas of concern include the removal of MTBE before the ethanol is added (the two compounds together raise Reid Vapor Pressure levels to unacceptable levels), new reporting requirements for the ethanol-blended fuel, and the logistics of blending the gasoline with ethanol in the cargo tanks at the bulk terminals. (Because ethanol cannot be transported through the fuel pipelines, it must be transported to the bulk terminals and blended on site.) The staff presented 5 training sessions in 2001.

Uniform Penalties for Refineries—In the December 2001 Public Hearing, the Board approved the ARB staff guidance document entitled “Draft Recommendation on Guidance for Penalty Assessments at Petroleum Refineries.” This guidance addresses emission violations attributable to refinery processes, which are under the jurisdiction of local air districts, as opposed to from violations of the fuel regulations, which are the responsibility of the ARB. The ARB enforcement staff assisted the Stationary Source Division in the preparation of this document by analyzing penalty data from six refineries that was supplied by two air districts. At the direction of the Board, staff is working with the California Air Pollution Control Officers Association (CAPCOA) to establish minimum civil penalties.

Consumer Products Enforcement

Program Overview

The Consumer Products Enforcement Section is responsible for ensuring that consumer products (such as hair sprays, household cleaning products, aerosol coatings, air fresheners, etc.) used in California meet the standards established by ARB. To accomplish this, Consumer Products Enforcement staff travel throughout California to conduct inspections of consumer products and aerosol coatings at retail establishments. These inspections may reveal administrative violations and/or infractions of the volatile organic compound (VOC) standards. In the field, product containers are inspected for compliance with date coding requirements and selected products are purchased for content analysis. Samples are submitted to the ARB's Monitoring and Laboratory Division for VOC testing. Where inspectors identify non-compliant product, enforcement actions will be initiated against the manufacturer, distributor, and/or retailer, as appropriate. Enforcement staff attempt to reach mutual settlement agreements, including corrective actions and civil penalties, with the violator. Matters that cannot be settled in-house or with the assistance of the Office of legal Affairs may be referred to the Office of the Attorney General for prosecution.

The ARB's portable fuel container regulations went into effect on January 1, 2001. The regulation requires that all portable fuel containers and spouts offered for sale in California be "spill-proof" and meet permeation specifications, however companies were allowed to sell, through the end December 2001, existing non-compliant products that were properly labeled. Field work has identified high levels of noncompliance with these new requirements. Currently the field inspection staff is working with manufacturers to evaluate their containers and spouts, note non-complying components, prepare compliance plans and settle cases (with required corrective action) where violations are found. In addition, inspection staff are working with distributors of these products to advise them of the regulations and the requirements for selling compliant containers and spouts in California.

Program News

Augmented sampling of hair styling products – During 2001, Consumer Products Enforcement staff focused on hair styling products because hair sprays continue to be the largest category of VOC emissions from consumer products while the sales of other hair styling products such as hair mousses and hair gels appear to be increasing. The VOC standard for hairsprays decreased to 55% by weight starting in 1999, however, we have continued to find non-complying hair styling products ranging from 80% hair sprays manufactured after the effective date, incorrectly categorized hair mousse products, diverted product (non-compliant product intended for sale outside of California), and counterfeit product.

Program adjustments for limits and categories -- New VOC limits became effective at the beginning of this year for several categories of consumer products including instant detailers, spot removers, and carpet cleaners. Staff concentrated some of their sampling efforts to determine compliance with these new VOC limits. It was also necessary to prepare for additional limits that will become effective in 2002, including new VOC limits and reactivity based limits for aerosol coatings. The section conducted a comprehensive

update of the date code keys used by manufacturers, gathered baseline samples for the laboratory, evaluated new products to determine the appropriate category under the regulation, and assisted in educating the industry about the new limits.

Stationary Source Enforcement:

Program Overview

The Stationary Source Enforcement Section, which joined the Enforcement Division in December 2001, provides the ARB's oversight responsibilities to local air district programs. The section's important and varied program areas include:

- **Complaint Hotline** – This toll-free telephone number -- (800) 952-5588 -- provides a medium for citizens throughout the state to call and voice their concerns regarding air pollution problems. Citizens call to alert the ARB to persistent odors, emissions from industry and vapor recovery equipment, smoking vehicles and to ask questions regarding air pollution. When a call is received it is recorded, assessed, and either referred to the appropriate air district or appropriate agency, or investigated by the ARB. The ARB's Public Information Office also maintains a toll-free contact number at: 800-END-SMOG (800-363-7664).
- **Complaint Investigation** – The section conducts special investigations of air pollution complaints concerning stationary sources that are referred to us by districts, ARB's Office of Legal Affairs and Executive Office, and by other agencies. The section conducts compliance inspections to assist other enforcement sections with case development, and special projects to ensure compliance with all Health & Safety Code (H&SC) requirements concerning stationary sources.
- **Variations** – The H&SC allows air districts to issue variations to stationary sources that may be or become out of compliance with their rules and regulations. A petition for a variance must be brought before an air district hearing board, who allows or denies the petition, based on a set of criteria defined by the H&SC. The section reviews all variations for compliance with H&SC requirements, issues corrective action orders to those that do not comply, and maintains a database to monitor the activity related to all variations. It coordinates and conducts hearing board training workshops and carries out audits to evaluate the effectiveness of district variance programs.
- **Asbestos** – The section oversees implementation of and compliance with the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), and investigates all related complaints. Of the 35 air districts in California, nineteen of these districts do not have an asbestos program in place. For these ("non-delegated") districts, the section receives and reviews all demolition/renovation notifications from these districts for compliance with the Asbestos NESHAP.
- **Agricultural Burning Program** – The section reviews air district smoke management plans and burning rules. The staff also conducts aerial surveillance on agricultural burning practices in the Sacramento Valley.
- **Aerometric Information Retrieval System (AIRS)** – The section oversees the collection and input into the AIRS database of compliance/inspection data on major sources and on high priority violators (HPVs) in 26 of the 35 air districts, and generates reports to

both the United States Environmental Protection Agency (U.S. EPA) and these air districts. The section conducts mini-audits of the districts' AIRS/Compliance and HPV programs to ensure complete and accurate input of the appropriate data, and assists U.S. EPA in training district personnel to effectively use the AIRS database.

- Continuous Emission Monitoring (CEM) Program – The H&SC requires that the operator of any stationary source (for which a district is required to install and operate a CEM) report violations of emission limits noted by the CEM to the air district, and that the local districts, in turn, report these to the ARB. The section collects, stores, analyzes and reports this information to U.S. EPA.

Strategic Environmental Investigations and Enforcement

Program Overview

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

Program News

Asbestos Cases – The ARB assists smaller air quality districts in investigation and pursuing cases involving illegal asbestos (“rip and tear”) removal. A number of cases that were referred to local district attorneys were closed during 2001, and resulted in misdemeanor convictions or civil penalties.

Incinerator Case – The Communities for a Better Environment community group raised concerns about a medical waste incineration facility, IES, operating in a mixed residential/industrial area to the attention of the ARB and the Bay Area Air Quality Management District (BAAQMD). While multiple issues were involved (e.g., odor nuisance, potential permit violations), the ARB was called upon to support the BAAQMD by installing and monitoring surveillance equipment to determine if burning activities exceeded smoke opacity standards. The facility subsequently shut down due to continuing violations of environmental regulations.

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

Appendices

Appendix A
Enforcement Action Summaries
Calendar Year 2001

	Type of Action Mobile Source ^{2,4}	Type of Action Heavy-Duty Vehicle Inspection Program ⁷	Type of Action Fuels ^{3,4}	Type of Action Consumer Products ⁴	Type of Action Portable Fuel Containers/Spouts	Type of Action Cargo Tanks	Type of Action Other ^{4,5}
Disposition Pending:	222	209	23	25	6	25	33
Settled or Adjudicated ¹ (See Note Below)	54 For \$2,057,675	535 For \$164,050	18 For \$99,750	2 For \$54,500	1 For \$800	27 For \$15,000	8 For \$118,750
Referred:							
DA	3						7
AG	7		2				
USA							
Other ⁶		10					1
In-House	267	734	39	27	7	52	33
Civil ⁸	276		41	27	7	52	28
Criminal ⁸							13
Administrative ⁶		744					
Total Actions	277	744	41	27	7	52	41
1,189 Cases							
645 Settled in CY 2001							
For a total of:							
\$2,509,725							

* Includes City Attorney, County Counsel, U.S. EPA., ARB Administrative Law Judge
1 Includes actions settled and payment plan begun (but not necessarily completed) in CY 2001.
2 Excludes actions settled before CY 2001, though payments completed during that year. (Also includes amounts settled by referred agencies when available.)
3 Excludes Notices of Correction/Violation or Reports of Violation not involving a monetary penalty.
4 Excludes cases in which it was determined that no further action would be taken and the case was closed during CY 2001.
5 Multi-environmental media and asbestos cases.
6 Refers to type of penalty sought. Joint civil/criminal prosecutions are recorded only in Criminal row.
7 Penalties collected under this program include settlements for some citations issued in CY 2001 and delinquent penalties for citations issued in earlier years.

*Appendix B***Significant Case Settlements**

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

The following is a summary of the significant cases settled in 2001, including mobile source, consumer products and fuels cases.

Mobile Source Cases**Bug Motors**

From early 1997-1999, Ken Scheiler, d.b.a. Bug Motors, illegally imported, delivered, offered for sale/sold 138 old-style Mexican Volkswagen Beetles produced for sale in Mexico. These vehicles were not certified for sale in California, or anywhere in the United States.

Steve Schneider, d.b.a. Redwood Auto Plaza (RAP) Group Inc., Mike Talebi and Marc Fogel all offered for sale/sold the Bug Motors' vehicles as well. The case was investigated by ARB, and was referred to the California Attorney General's office for prosecution. Judge James C. Chalfant of the Los Angeles County Superior Court signed a Judgement against Bug Motors, Ken Scheiler, RAP Group Inc., and Steve Schneider on December 10, 2001. In addition, Talebi and Fogel, signed Partial Consent Decrees in August 2001, and December 2001 respectively. A total of \$1,052,500 has been awarded to the ARB in this case.

Costco Wholesale Corporation

During an investigation earlier this year, ARB determined that approximately 900 non-California certified Toro lawn mowers (model 20023) were obtained by Costco and a number of units were distributed to stores in California. Ultimately, 90 units were sold. The case was settled for \$25,000, and the settlement agreement also stipulated that Costco will provide training to their staff to minimize the chance of future violations.

Echo, Inc.

Through an ARB investigation, Echo, Incorporated was found to have avoided approximately 478 required assembly line emissions tests on small gas powered weed whips and blowers produced in 1999. Although no adverse air quality impact resulted from the missed audit tests, the ARB vigorously enforces the audit provisions to ensure

emissions problems are caught before the engines are sold to California consumers. Under the terms of the settlement, Echo paid \$45,000 to the Air Pollution Control Fund.

Ford Motor Company

During inspections from 1997 through 2000, it was determined that Ford was incorrectly installing 49-state emissions labels on California certified vehicles. This is a violation of California law and can lead to considerable inspection problems during "Smog Check". Ford signed a settlement of \$150,000 that covers all 1997 through 2000 Ford vehicles, estimated as approximately 3,000 units.

Additionally, Ford agreed to supply information to California Ford dealers regarding California's emissions regulations and vehicle labeling requirements. Ford will also implement a system to ensure that proper labels are installed at the time of manufacture, and has taken steps to tighten their re-label ordering process. Ford will provide to ARB quarterly reports for one year summarizing the results of inspections to verify correct labeling conducted at Ford's centralized end-of-line emissions test facility.

Komatsu Zenoah and Patmont Motor Werks

Komatsu Zenoah Co. (KZ) and Patmont Motor Werks(PMW), Inc. settled a case and paid a penalty of \$100,000 for selling, in California, motorized scooters and other non-preempted equipment with two stroke engines that do not comply to the state's Tier II air quality standards for small off-road engines. The Tier II Regulations for Small Off-Road Engines are mandatory for all units built after January 1, 2000. KZ and PMW were jointly named in this case because regulations stipulate that original manufacturers and subsequent distributors must both ensure that engines intended for sale in California meet all required emissions standards. All future products sold by PMW in California must be equipped with a Tier II certified KZ engine.

Under the terms of the agreement KZ and PMW must pay an additional \$2,675 within 60 days of the final settlement. The companies agreed to try to recover as many of the non-compliant scooters as possible. For each scooter sold and recovered the \$2,675 will be reduced by \$25.00. This credit will only be applied to those scooters recovered within those 60 days.

During the investigation and case development, KZ and PMW filed an objection to the U.S. EPA's approval that allows California to set more stringent rules for this engine category. Under the terms of the settlement agreement, this objection has been withdrawn.

Ultra Motorcycle Manufacturing Company

Early in 2000, ARB performed a number of inspections at factory owned Ultra Motorcycle Manufacturing Company (Ultra) dealerships. Those inspections revealed that the dealerships were offering for sale/selling custom motorcycles that were not certified by ARB. The motorcycles' emissions systems had either been removed or had never

been installed. Notices of Violation were issued to the dealerships, who, however, failed to respond and continued to sell illegal motorcycles. After unsuccessful attempts to settle with Ultra, ARB referred the case to the California Attorney General for litigation. On July 11, 2001, a settlement of \$450,000 was reached, and the company has been placed on a three-year probation. The company has subsequently filed for bankruptcy.

Waste Management Collection & Recycling, Inc. of Santa Ana

An investigation by the ARB showed that Waste Management Collection & Recycling, Inc. of Santa Ana failed to properly self-inspect their diesel truck fleet under the requirements of the ARB's Periodic Smoke Inspection Program (PSIP). The ARB found 43 vehicles that had not been inspected, and of those that were tested, Waste Management used a smoke opacity meter that was not in proper working order.

The ARB presented investigation results to the Orange County District Attorney (DA), who filed a consumer protection suit against the trash company. The suit was settled in Orange County Superior Court in September 2001, wherein Waste Management paid a \$75,000 penalty and agreed to comply with the PSIP. The company has paid ARB an additional \$1,200 in penalties for vehicles that were checked by ARB inspectors during this investigation and failed to meet smoke emission opacity standards.

Consumer Products Cases

Mercantile Development

On February 24, 2000, in response to a complaint, ARB obtained samples of Wet Towel All-Purpose Cleaner, which is manufactured by Mercantile Development. Lab analyses confirmed that this product violated the specifications for the "General Purpose" category of the ARB's Consumer Products Regulation. Based on company-supplied sales records and formulation data of the product from January 1994 through June 2000, excess emissions were calculated at 3 tons. This case was settled on July 31, 2001, for \$12,000.

StanSport Portable Fuel Container

During a routine inspection on August 21, 2001, ARB observed 5-gallon StanSport brand portable fuel containers being offered for sale without having been marked with a date of manufacture or representative date code. A Report of Violation was issued on October 10, 2001, and the case was settled on December 14, 2001 for \$800.00. This is the first case settled under the ARB's "Portable Fuel Containers and Spouts" regulation that was adopted in 1999, and became effective on January 1, 2001.

Fuels Cases

Equilon Refinery

During a routine inspection on August 31, 2000, ARB inspectors sampled the regular grade of gasoline at the Equilon refinery in Wilmington and found it to have an RVP of

7.37 pounds per square inch (psi), that exceeded the State standard of 7.0 psi. Equilon has speculated that the violation may have been caused by modifications to the vapor recovery system that were completed at the end of August 2000. This case was settled for \$30,000.

Tosco Corporation

During a routine inspection at Tosco's Richmond terminal on May 2, 2000, ARB found that the premium gasoline being sold from one of their tanks exceeded the summertime RVP standard of 7.0 pounds per square inch. This violation of the RVP regulation was caused by stratification in a tank manifolded together with two others. Terminal policy required that all three tanks receive and dispense product simultaneously to insure proper mixing, but operators had been receiving and dispensing through the two outer tanks only, allowing the gasoline in the middle tank to stratify with high-end gasoline riding at the top.

The middle tank had been damaged during the 1989 Loma Prieta earthquake, and when the tank was repaired, the roof-sampling hatch was blocked. Quality control samples were not representative of the product in the tank, and operators were not aware of the stratification that had occurred. In addition to paying a monetary penalty of \$25,000, Tosco also implemented improved quality control procedures and reopened the roof-sampling hatch.

Appendix C

**Mobile Source
Program and Inspection Activities -- 2001**

Table C-1

Heavy-Duty Vehicle Inspection Program

Number of Quick Snap tests	15,691
Number Citations 1 st level	695
Number Citations 2 nd level	13
Notices of Violation	308
Failure rate	6.5%
Appeals received	12
Appeals closed (includes cases opened in prior years)	14
Closed citations	535
Penalties collected from non-delinquent citations	\$164,050
HDVIP I delinquent citation collections	\$43,325.77
HDVIP II delinquent citation collections	\$21,107

Table C-2

Smoking Vehicle Complaint Program

Letters sent	275
Responses received	50
Response rate	18%

Table C-3

Certificate of Non-Compliance (49-State Vehicle) Program

Certificates received	2,571
Certificates reviewed	461
Cases opened	107
Cases closed	73

*Appendix D***Fuels and Consumer Products
Inspection Activities -- 2001**

Table D-1

Consumer Products Inspections and Samples

Samples obtained	1,172
Lab results received	528
Alleged violations	186

Table D-2

Portable Fuel Containers and Spouts

Samples obtained	198
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Table D-3

Cargo Tank Vapor Recovery Certification*

Cargo tanks inspected	478
Cargo tanks tested	240
Pressure violations (nitrogen test)	47
Uncertified equipment violations	1
Liquid leak violations	10
Annual tests observed	68

*Includes tanks inspected during strike forces.

Table D-4

Motor Fuel Inspection Summary

Number of samples	2,015
Number of analyses*	17,592
Reid vapor pressure	1,628
Lead	962
Sulfur	2,014
Manganese	962
Phosphorus	962
Oxygen*	1,628
Benzene*	1,800
Total aromatics*	1,800
Olefin*	1,628
Distillation, T50*	1,794
Distillation, T90*	1,794
Aromatic hydrocarbon* (dsl)	310
PAH (dsl)	310

* Includes screen results

Table D-5

Gallons Represented in Sampling

Gasoline	294,260,236
Diesel	57,828,196

Appendix E

Stationary Source Enforcement
Air District Oversight Activity -- 2001

Table E-1

Aerometric Information Retrieval System (AIRS) Compliance Data

Reports received	64
Reports entered	64
Issues addressed	168
Reports sent to districts	52
Mini-audits conducted*	3

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

Table E-2

Asbestos Enforcement Activity

Notifications received	288
Demolition/renovation inspections	28
Violations issued	10
Violations settled	6
Penalty amount received	\$1,000
Samples collected	18
Samples analyzed	18
Complaints received	24
Complaints investigated	24
Violations issued in response to complaints	12
Violation conferences	4
Related phone calls/e-mails received	528
NARS** reports submitted	4
Workshops conducted	2

** National Asbestos Registry System

Table E-3

Continuous Emissions Monitoring (CEMs) Program Activity

Total reports received	2,126
NO _x	690
SO ₂	192
H ₂ S	350
CO	400
Opacity	494

Table E-4

Hotline Complaints Activities

Total complaints received	284
Stationary source	56
Vapor recovery	118
Smoking vehicle	110
Questions answered	162
Referrals to air districts	174
District responses received	164
Referred for investigation	0
Referred to other ARB division	68
Referred to other agency	42

Table E-5

Air District Rule Review

Rules received	356
Rules reviewed	336
Rules commented on	132

Table E-6
Variance Activity

Variations received	382
Variations reviewed	382
Notices received	358
Variations questioned	24
Variations returned	10
Issues addressed	676
Hearing Board visits	8
Workshops conducted	4
Audits***	1

*** Northern Sierra AQMD

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

Acting Division Chief	Paul E. Jacobs	(916) 322-7061
Division Secretary	Anita Ortiz	(916) 322-7061
Enforcement Database Coordinator	Reggie Guanlao	(916) 445-2815
Enforcement Division Administrative Assistant	Valerie Sarver	(916) 322-2659
Enforcement Division FAX (Sacramento – HD Diesel Program)	-	(916) 322-8274
Enforcement Division FAX (Sacramento – General Enforcement)	-	(916) 445-5745
Enforcement Division FAX (El Monte – HD Diesel Program)	-	(626) 450-6170
Enforcement Division FAX (El Monte – MS Enforcement Program)	-	(626) 350-6431

Mobile Source Enforcement Contacts:

Acting Chief, Mobile Source Enforcement Branch	Gregory Binder	(626) 575-6843
Manager, Mobile Source Enforcement Section	Gregory Binder	(626) 575-6843
Manager, Heavy-Duty Diesel Enforcement Section	Darryl Gaslan	(626) 450-6155
HD Diesel Field Supervisor – Northern California	Chuck Owens	(916) 445-2049
HD Diesel Field Supervisor – Southern California	Craig Pendley	(626) 450-6172
Citation Administration – Northern California	Renae Hankins	(916) 322-8275
Citation Administration – Southern California	Rosemarie Huizar	(626) 450-6158
Collections Administration	Cheryl Griffin	(916) 322-2654

Fuels/Consumer Products Enforcement Contacts:

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

Stationary Source Enforcement Contacts:

Chief, Stationary Source Enforcement Branch	Bob Leonard	(916) 322-6034
Manager, Strategic Environmental Investigations Enforcement Section	Victor Espinosa	(916) 322-3976
Manager, Stationary Source Enforcement Section	Carl Brown	(916) 323-8417
Aerometric Information Retrieval System Program	Jill Locke	(916) 324-8020
Agricultural Burning Program	Cheryl Haden	(916) 323-8410
Asbestos NESHAP Program	Ahmad Najjar	(916) 322-6036
Complaint Hotline Program	Verna Ruiz	(800) 952-5588
Continuous Emission Monitoring Program	Verna Ruiz	(916) 327-7574
Variance Program	Judy Lewis	(916) 322-1879

Other Contacts:

ARB Office of Legal Affairs	Kathleen Walsh, Chief Counsel	(916) 322-2884
ARB Public Information Office	Jerry Martin, Information Officer	(916) 322-2990
ARB Complaint Hotline (Alternative Number)	-	(800) 363-7664 (800) END-SMOG