2016 Annual Enforcement Report

June 22, 2017

California Environmental Protection Agency
Air Resources Board

Outline

- Overview of Enforcement Programs
- Volkswagen Settlement
- Vehicles & Consumer Products
- Diesel Programs
- Environmental Justice
- Stationary Source Programs
- A Look Forward

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Enforcement Goal

- Protect public health and the environment
  - Achieve compliance
  - Provide a level playing field
  - Implement fair enforcement process

Enforcement Programs Overview

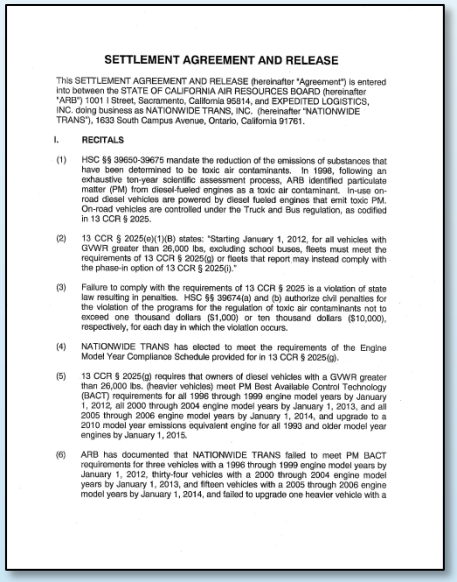
- Certification
  - Vehicles, engines & parts
  - Fuels
- Fleet rules
  - Truck and Bus & In-Use Off-Road
- Stationary and area-wide sources
  - Greenhouse gas rules
  - Asbestos and other toxics rules
  - Consumer products
  - Collaboration with local air districts
- Support programs

Identifying Violations

- Field inspections
- Product testing
- Databases
- Audits
  - Recordkeeping and Reporting
- Tips and complaints
  - 1-800-END-SMOG
  - **https://www.arb.ca.gov/enf/complaints/complaints.htm**
- Partnerships

Enforcement Process

- We work with responsible parties to try to resolve violations through negotiated settlement.
  - Evaluate information
  - Notification of violations
  - Opportunity to discuss
  - Negotiated settlement
    - Achieve compliance
    - Assess penalties



SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB") 1001 I Street, Sacramento, California 95814, and EXPEDITED LOGISTICS, INC. doing business as NATIONWIDE TRANS, INC. (hereinafter "NATIONWIDE TRANS"), 1633 South Campus Avenue, Ontario, California 91761.

I. **RECITALS**

(1) HSC §§ 39650-39675 mandate the reduction of the emissions of substances that have been determined to be toxic air contaminants. In 1998, following an exhaustive ten-year scientific assessment process, ARB identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. In-use on-road diesel vehicles are powered by diesel fueled engines that emit toxic PM. On-road vehicles are controlled under the Truck and Bus regulation, as codified in 13 CCR § 2025.

(2) 13 CCR § 2025(e)(1)(B) states: "Starting January 1, 2012, for all vehicles with GVWR greater than 26,000 lbs, excluding school buses, fleets must meet the requirements of 13 CCR § 2025(g) or fleets that report may instead comply with the phase-in option of 13 CCR § 2025(i)."

(3) Failure to comply with the requirements of 13 CCR § 2025 is a violation of state law resulting in penalties. HSC §§ 39674(a) and (b) authorize civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed one thousand dollars ($1,000) or ten thousand dollars ($10,000), respectively, for each day in which the violation occurs.

(4) NATIONWIDE TRANS has elected to meet the requirements of the Engine Model Year Compliance Schedule provided for in 13 CCR § 2025(g).

(5) 13 CCR § 2025(g) requires that owners of diesel vehicles with a GVWR greater than 26,000 lbs. (heavier vehicles) meet PM Best Available Control Technology (BACT) requirements for all 1996 through 1999 engine model years by January 1, 2012, all 2000 through 2004 engine model years by January 1, 2013, and all 2005 through 2006 engine model years by January 1, 2014, and upgrade to a 2010 model year emissions equivalent engine for all 1993 and older model year engines by January 1, 2015.

(6) ARB has documented that NATIONWIDE TRANS failed to meet PM BACT requirements for three vehicles with a 1996 through 1999 engine model years by January 1, 2012, thirty-four vehicles with a 2000 through 2004 engine model years by January 1, 2013, and fifteen vehicles with a 2005 through 2006 engine model years by January 1, 2014, and failed to upgrade one heavier vehicle with a

Enforcement Division's Role

- Emissions reductions are only achieved through compliance
- Effective enforcement starts with regulatory design
- Enforcement impacts people directly
- Accountability is crucial
  - To the public - impacted communities
  - To regulated industry
  - To the Board

Penalties

- Assessed to achieve deterrence at facility and industry level
- Based on relevant facts and circumstances
  - 8 factors required by law
    - Extent of harm
    - Nature of violation
    - Compliance history
    - Preventative actions taken
    - Innovative nature of compliance
    - Effort made by company to comply
    - Cooperation of company
    - Financial burden

2016 Enforcement Summary

- Volkswagen settled with ARB
  - Vehicles are being modified or bought back from consumers
  - $1.4 billion of mitigation and penalties in CA
- Routine enforcement
  - 220 cases settled in 15 programs for $13.3 million dollars in assessed penalties
  - Issued more than 4,700 citations and collected more than $2.8 million dollars in penalties

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- **Volkswagen Settlement**
- Vehicle & Consumer Products
- Diesel Programs
- Environmental Justice
- Stationary Source Programs
- A Look Forward

Vehicle Certification Programs

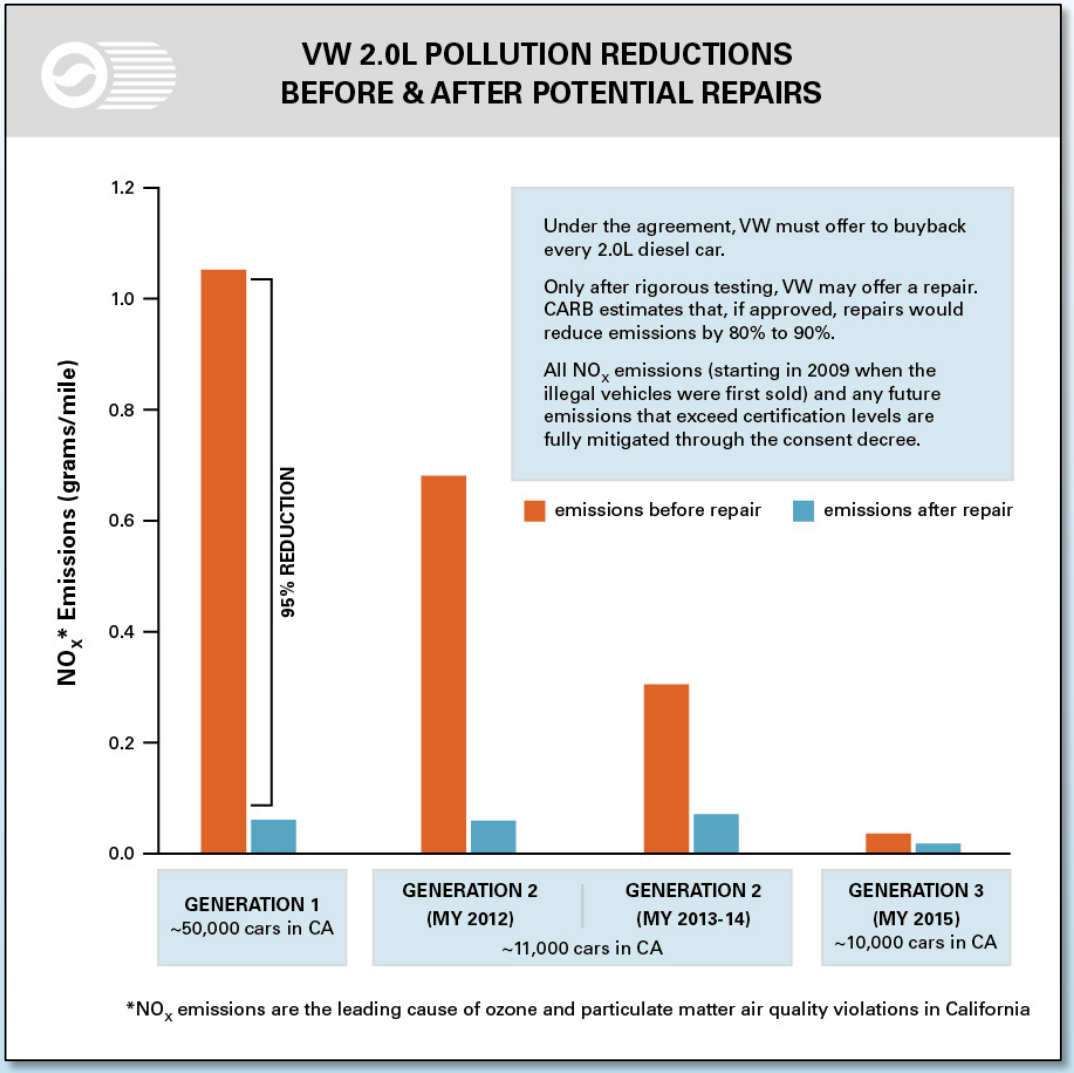
- CARB sets emissions standards
- Manufacturer submits application
  - Specifies what they intend to sell
  - Demonstrates compliance with emissions, durability, on-board diagnostic standards
  - Conducts testing over prescribed driving cycles
  - Submits detailed report of test results
- CARB approval required to sell vehicles

Volkswagen Settlement

- Volkswagen/Audi/Porsche
  - Used defeat devices to circumvent certification
  - 500,000 vehicles nationwide
  - Settlement achieved between violators, consumer groups, government agencies
  - More than $25 billion in consumer compensation, vehicle repairs, investments, mitigation and penalties nationwide

Emissions Modification

- Stringent standards for emissions modification
  - Protect consumers
  - Reduce emissions



Mitigation and Penalties in CA

- 85,000 2.0L and 3.0L vehicles 85% must be bought back or modified
- $1.4 billion dollars in compensation
  - $422.8 million dollars for mitigation projects
  - $25 million dollars for car scrap / ZEV replacement
  - $800 million dollars in investments for ZEV infrastructure, access
  - $153 million dollars in penalties and costs

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Vehicle, Engine & Parts Enforcement

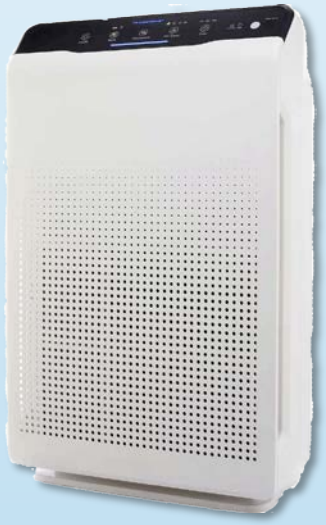
Vehicle, Engine & Parts Enforcement

- Settled 14 cases, and assessed more than $3 million dollars in penalties
- American Honda Motor Co. Inc.
  - Importing and delivering uncertified vehicles and aftermarket parts
  - Settlement agreement for $1,037,100, including $295,275 allocated to School Bus SEP

Vehicle, Engine & Parts Enforcement

- LeMans Corporation
  - Aftermarket critical emissions control parts
  - Settlement agreement for $627,250
  - $156,812 allocated to School Bus SEP
- Derive Systems, Inc.
  - Aftermarket parts for diesel and gasoline
  - Settlement agreement for $281,840, including $70,460 allocated to School Bus SEP
- Midwest Can Company
  - Gas cans failed performance standards
  - Settlement agreement for $400,000, including $100,000 allocated to School Bus SEP

Consumer Products Enforcement



Consumer Products Enforcement

- Settled 37 cases, assessing over $1.3 million dollars in penalties
- <u>Big Lots Stores, Inc.</u>
  - Non-compliant windshield washer fluid
  - Settlement agreement for $250,000

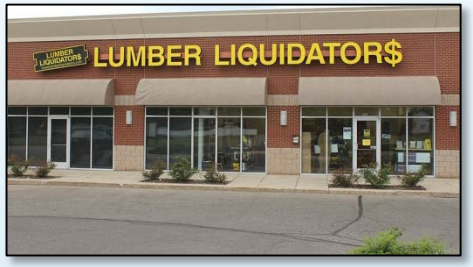
- <u>Vi-Jon Inc. CVS, Rite Aid, Longs Drugs</u>
  - Non-compliant hair styling products
  - Settlement agreement for $199,500

Composite Wood Enforcement

- Composite Wood Program
  - Goal: minimize indoor exposure to formaldehyde
  - Sets stringent formaldehyde emission limits
  - Applies to manufacturers, importers, distributers, and retailers

Lumber Liquidators

- Sold flooring that exceeded standards
- Settlement conditions:
  - $2,500,000 in penalties
  - Fabricator Laminate Evaluation & Audit Program (LEAP)
  - Composite Core Testing Research and Finished Goods Testing Program
  - Enhanced Regulatory Collaboration



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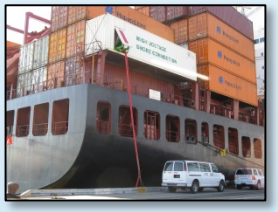
Diesel Programs

- Staff enforces diesel fleet rules through investigations and field citations
  - Diesel fleet investigations
    - Settled 131 cases and assessed more than $4 million dollars in penalties
  - Ports and marine investigations
    - Settled 17 cases; assessed $165,000 in penalties
  - Heavy Duty Diesel Inspections
    - Issued 4,738 citations
    - Collected $2.7 million dollars in penalties
  - Seven media events across the state



2016 Field Enforcement

- Inspected 16,576 trucks and issued 4,282 citations

- Inspected 1,368 off-road equipment, issuing 456 citations

- Inspected 897 ocean-going vessels, issuing 13 notices of violation (NOV)

- Inspected CHE and issued 3 NOVs

Diesel Fleet Investigations

- Initiated by field inspection or complaint
- Use Smart Audit process to refine and prioritize investigations
- Inspect and audit fleets identified for further scrutiny

Diesel Fleet Investigations

- Young Trucking LLC.
  - Failure to comply with Truck & Bus, PSIP & TRU requirements
  - Settlement Agreement for $100,000
- Nationwide Trans, Inc.
  - Failure to meet Truck & Bus requirements
  - Settlement Agreement for $393,000

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Environmental Justice Efforts

- Outreach in regular community meetings
  - Oakland, Hunters Point, Bakersfield, Fresno, South Gate, Watts, Los Angeles, Coachella and Brawley
- Conduct targeted enforcement
  - 16,576 trucks inspected statewide; 52% in disadvantaged communities
  - Support multi-media enforcement initiatives

Supplemental Environmental Projects

- Implement AB 1071
  - Solicit potential Supplemental Environmental Projects (SEPs)
  - Benefit disadvantaged communities
  - Up to 50% of settlement penalties to SEPs
  - Submit annual list of SEPs to CalEPA

Approved 12 New SEPs

- 12 projects approved so far
  - San Joaquin Valley, South Coast, Bay Area, and Central Coast
- Projects include
  - Asthma education and support services
  - School air filtration
  - Community air monitoring programs
  - Tree plantings to reduce roadway exposure
  - Others

Transitioning to New Program

- 18 SEP applications under review
- Additional outreach this summer
- Encouraging use of new SEPs
- Potential new SEP to pool monies to fund projects

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Enforcement Support

- Provide training to local district staff and regulated entities
- Directly enforce ARB regulations
- Register cargo tanks and portable equipment
- Process citations

Training

- 281 classes in 44 topics reaching 7,659 students
- Co-sponsored the CAPCOA enforcement symposium
  - 125 attendees representing 26 Air Districts and other agencies
  - Goal is to encourage cooperation between air districts, ARB, and U.S. EPA.

Stationary Source Enforcement

- Staff enforces greenhouse gas and toxics regulations
- Mandatory Reporting: Settled 8 cases and assessed $1.3 million dollars in penalties
- Refrigeration Management: Settled 5 cases and assessed $252,750 in penalties
- Landfill Methane: Settled one case and assessed $70,000 in penalties.

Equipment Registration Programs

- Cargo tank registration
  - Issued or renewed 5,700 registrations
- Portable Equipment Registration
  - Issued or renewed >10,000 registrations
- Portable equipment regulatory amendments to be presented to the Board this fall

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Looking Forward

- Effective enforcement starts with design
  - Providing greater input to regulatory process
- Focusing on internal procedures
- Developing new tools to enhance enforcement
  - Smart audit databases / procedures
  - Portable Emissions AcQuisition System
  - Information management systems

Updating Enforcement Polices

- AB 1685 substantially increases mobile source penalties $5,000 - $37,500
- Conducting thorough policy review
- Established working group and conducting public process

Assessing Compliance Rates

- Compliance is our goal
- Compliance rates are a progress metric
  - Assess program success towards goal
  - Help prioritize enforcement efforts
  - Indicate areas needing broader solutions
- Established goal in 2016 to assess compliance rates in key programs

Most Programs Achieve High Compliance Rates

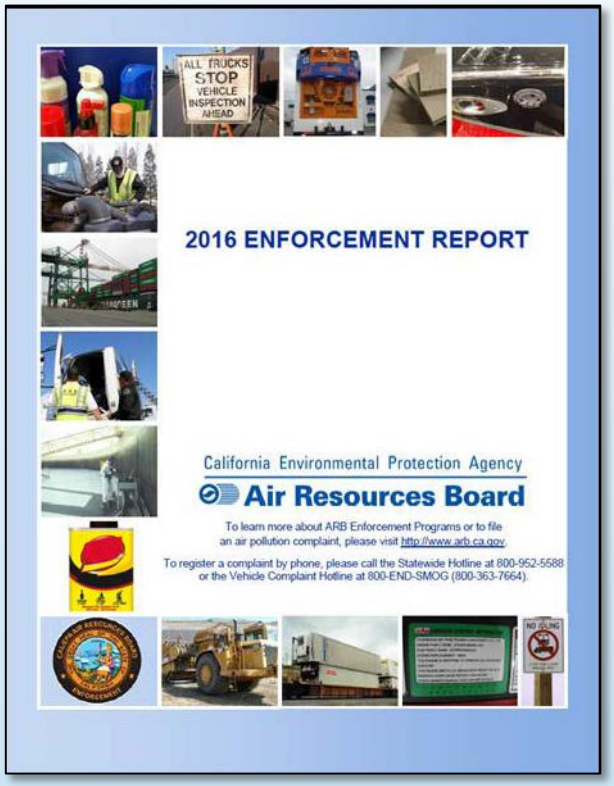
- Reformulated gasoline – ~99%
- Ocean-going vessel fuels – ~99%
- Cargo handling equipment – ~95%
- Cargo tanks - >90%
- In-Use Off-Road – 85% (large fleets)
- Transportation Refrigeration Units – 60% to 80%

Addressing Truck and Bus Rule Non-Compliance

- HD Truck compliance rate about 70%
- Implementing more efficient procedures
  - Opened 48 new cases in early 2017
- New SB-1 registration requirement
  - Implementation in 2020
- Supporting heavy-duty I+M development
- We have made progress, but much remains to be done

2016 in Review

- ARB enforcement programs help ensure compliance
- Closed 220 cases
- Issued 4,738 citations
- $16.2 million in penalties beyond VW
- Refining enforcement and SEP programs



http://www.arb.ca.gov/enf/reports/reports.htm