



Enforcement Progress Report



1999 - 2001



California Environmental Protection Agency



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Secretary Cal/EPA



Gray Davis
Governor

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

ENFORCEMENT PROGRESS REPORT 1999-2001

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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY ENFORCEMENT PROGRESS REPORT

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY	1
BACKGROUND	2
I. CAL/EPA'S ENFORCEMENT ACCOMPLISHMENTS	3
A. CAL/EPA'S MISSION AND VISION	3
B. NEW RESPONSIBILITIES FOR THE CAL/EPA DEPUTY SECRETARY FOR LAW ENFORCEMENT AND COUNSEL	4
C. ENFORCEMENT BUDGETS	5
1. FISCAL YEAR 1999-2000 BUDGET	5
2. FISCAL YEAR 2000-2001 BUDGET	6
D. CROSS MEDIA ENFORCEMENT	7
1. CROSS MEDIA INVESTIGATIONS	7
2. CROSS MEDIA ENFORCEMENT PROJECTS	8
a. The Chrome Analysis Project: Cross Media Inspections and Analysis of a Single Industry	8
b. Jewelry Mart: A Project Using Enforcement and Compliance Assistance Outreach	8
3. ENVIRONMENTAL TASK FORCES	9
4. ENVIRONMENTAL ENFORCEMENT IN THE BORDER AREA	11
5. OUTREACH WITH TRIBES	13
6. IMPROVING STATE CONSISTENCY: THE CIRCUIT PROSECUTOR'S PROJECT	13

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
E. ENFORCEMENT TRAINING	14
1. CAL/EPA BASIC INSPECTOR ACADEMY	14
2. THE CAL/EPA CROSS MEDIA ENFORCEMENT SYMPOSIUM	15
3. TRAINING INFORMATION CLEARINGHOUSE	16
4. ENVIRONMENTAL CRIMES – SPECIAL INVESTIGATION FORENSICS	16
F. CAL/EPA’S CERTIFIED UNIFIED PROGRAM AGENCY PROGRAM	16
1. CUPA ENFORCEMENT WORKGROUP	16
2. RURAL CUPA ASSISTANCE FUNDING	17
3. UNIFIED PROGRAM INFORMATION MANAGEMENT	18
4. NEW UNIFIED PROGRAMS	18
5. CUPA ENFORCEMENT STATISTICS	18
6. CURRENT EFFORTS BY CAL/EPA AND THE CAL-CUPA FORUM	20
G. SIGNIFICANT ENFORCEMENT LEGISLATION 1999-2001	21
H. ENFORCEMENT DATA MANAGEMENT	22
I. ENVIRONMENTAL JUSTICE	23
II ENFORCEMENT SUMMARY DATA FOR THE CAL/EPA BOARDS AND DEPARTMENTS	26
III AIR RESOURCES BOARD (ARB)	27
A. ENFORCEMENT RESPONSIBILITIES OVERVIEW	27

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
B. ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001	27
1. CREATION OF THE ENFORCEMENT DIVISION	27
a. Initial Steps In Development of Integrated Enforcement Case Tracking Database	28
b. Monthly Case Review Meetings	28
c. Enforcement Activities Report	28
d. Monthly Enforcement Status and Expenditure Records	28
e. Enforcement Program Web Page	29
f. Enforcement Related Legislative Activities	29
2. MOBILE SOURCE ENFORCEMENT	29
a. Increased Enforcement of Off-Highway Vehicles (OHV)	29
b. Increased Enforcement of Small Off-Road Engines	30
c. Aftermarket Catalysis on On-Board Diagnostic II Vehicles	30
d. Cases Involving Non-California Certified Vehicles	31
e. Improper Emission Label	31
f. Non-Certified Motorcycles	31
g. Coordination with DMV	31
h. Specialty Equipment Market Association Show	31
i. Other Cases Against Dealerships and Fleets	32
3. HEAVY DUTY DIESEL ENFORCEMENT	32
a. Heavy Duty Vehicle Inspection Program North American Free Trade Agreement/Border Accomplishments	32
(1) Border Inspections	32
(2) Outreach	32
(3) The Tijuana Project	33
(4) Industry Days	33
(5) Tri-National Conference	33
b. Heavy-Duty Diesel Roadside Inspection Program Accomplishments	33
(1) Inspections	33
(2) Delinquent Citations	34
(3) Guidance Documents for Heavy Duty Program	34

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
(4) Opacity Meter Certification	34
(5) Internet Related Outreach	34
4. FUELS AND CONSUMER PRODUCTS ENFORCEMENT	34
a. Enforcement Accomplishment for 1999-2001	35
(1) Fiscal Year 1999-2000	35
(2) Fiscal Year 2000-2001	35
5. STATIONARY SOURCE ENFORCEMENT ACCOMPLISHMENTS	36
6. SPECIAL ENVIRONMENTAL INVESTIGATIONS (CROSS ENVIRONMENTAL MEDIA) AND ENFORCEMENT	38
C. QUANTITATIVE SUMMARY OF VIOLATION AND PENALTY STATISTICS	39
1. ENFORCEMENT DATA FOR ARB	39
Enforcement Accomplishments for 1996-1997	39
Enforcement Accomplishments for 1999-2000	39
Enforcement Accomplishments for 2001	40
2. ENFORCEMENT DATA FOR CALIFORNIA'S 35 AIR QUALITY MANAGEMENT DISTRICTS	40
a. Enforcement Data for 1999-2000	40
b. Enforcement Data for 2001	40
(1) South Coast Air Quality Management District	40
(2) San Joaquin Valley Unified Air Pollution Control District	41
D. ARB ENFORCEMENT GOALS FOR 2002	41
IV STATE WATER RESOURCES CONTROL BOARD (SWRCB)	42
A. SWRCB ENFORCEMENT RESPONSIBILITIES OVERVIEW	42

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
B. SWRCB'S ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001	42
1. ENFORCEMENT ACTIVITIES GENERALLY	42
Chart 1--Formal Enforcement Orders Statewide	43
Chart 2--Enforcement Actions With Fines	43
Chart 3--Total Liabilities Assessed by FY	44
Chart 4--NPDES Violations from 1/1/00-9/30/01	44
2. CRIMINAL CASES	45
3. SIGNIFICANT RWQCB CASES	45
4. SIGNIFICANT SWRCB ENFORCEMENT ACTIVITIES	49
a. Division of Water Rights	49
b. Office of Operator Certification	50
c. Underground Storage Tank (UST) Program	50
5. ENFORCEMENT RELATED BUDGET AUGMENTATION	51
a. Training for Inspectors and Compliance Staff	51
C. SWRCB QUANTITATIVE ENFORCEMENT INFORMATION FOR 1999-2001	52
D. STATE BOARD'S STRATEGIC PLAN	53
1. IMPROVED DATA SYSTEMS	53
2. REVISION OF THE STATE BOARD ENFORCEMENT POLICY	54
V. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB)	56
A. ENFORCEMENT RESPONSIBILITIES OVERVIEW	56
1. PERMITTING	56

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
2. OPERATIONS	56
3. CLOSURE AND POST CLOSURE OF LANDFILLS	57
4. LEA PERFORMANCE	57
5. CLOSED, ILLEGAL AND ABANDONED WASTE DISPOSAL SITES	57
B. CIWMB ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001	58
1. ENFORCEMENT AND COMPLIANCE PROCEDURES RULEMAKINGS COMPLETED	58
2. FINANCIAL ASSURANCES PROGRAM	58
3. RIGID PLASTIC PACKAGING CONTAINER (RPPC) PROGRAM	59
4. ENFORCEMENT FOR PLANNING AND LOCAL ASSISTANCE PROGRAM	59
C. CIWMB ENFORCEMENT GOALS FOR 2002	60
1. ENFORCEMENT ASSISTANCE PROGRAM	60
2. CLOSED, ILLEGAL AND ABANDONED SITES	60
3. FIVE-YEAR PLAN	60
4. USED OIL GRANTS	61
5. HOUSEHOLD HAZARDOUS WASTE GRANTS	61
6. LEA ENFORCEMENT ACTIONS	61
VI DEPARTMENT OF PESTICIDE REGULATIONS	62
A. CDPR ENFORCEMENT RESPONSIBILITIES OVERVIEW	62

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
B. CDPR ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001	62
1. 2000-2001 BUDGET	62
2. ENFORCEMENT TRACKING SYSTEM IMPROVEMENT	63
3. ENHANCED ENFORCEMENT POWERS	63
4. INTERNET SALES TASK FORCE	64
5. LEGISLATION AFFECTING PESTICIDE ENFORCEMENT	64
6. COMPLIANCE ASSESSMENT REPORT	64
7. PESTICIDE DRIFT TARGETING INITIATIVE	67
8. CDPR MILL FEE ASSESSMENT INCREASE	67
9. CALIFORNIA BORDER PROGRAM	67
C. CDPR QUANTITATIVE ENFORCEMENT RELATED DATA FOR 1999-2001	68
D. CDPR GOALS FOR 2002	69
VII DEPARTMENT OF TOXIC SUBSTANCES CONTROL	71
A. DTSC ENFORCEMENT RESPONSIBILITIES OVERVIEW	71
B. DTSC ENFORCEMENT ACCOMPLISHMENTS 1999-2001	71
1. THE COMPREHENSIVE ENFORCEMENT INITIATIVE	72
2. DEVELOPMENT OF THE TASK FORCE SUPPORT AND SPECIAL INVESTIGATIONS UNIT	72
3. REGULATORY INITIATIVES	72
4. CALIFORNIA-MEXICO BORDER	73

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
5. DATA MANAGEMENT PROJECT	73
6. IMPLEMENTATION OF BUDGET AUGMENTATION	73
C. QUANTITATIVE ENFORCEMENT INFORMATION	75
1. CRIMINAL, CIVIL, AND ADMINISTRATIVE CASE FILINGS	75
2. SEPS, CLEANUPS, AND SETTLEMENT AGREEMENTS	75
3. FINES, PENALTIES, AND RESTITUTION	76
4. INFORMAL ENFORCEMENT ACTIONS	76
D. DTSC ENFORCEMENT GOALS FOR 2002	76
1. FINANCIAL RESPONSIBILITY	76
2. INFORMATION TECHNOLOGY ENHANCEMENTS	77
3. INTERNAL GUIDANCE REVISIONS	77
4. ADOPTION OF MANIFEST DISCREPANCY REGULATIONS	77
VIII OFFICE OF HEALTH HAZARD ASSESSMENT	78
IX CONCLUSION	79
APPENDIX A: LIST OF ACRONYMS	80

EXECUTIVE SUMMARY

Since 1999, the California Environmental Protection Agency (Cal/EPA¹) and its Boards and Departments have made great strides toward effective implementation of their enforcement mandates. This report is both an accounting of the successes and a blueprint for effective environmental enforcement in the years ahead.

Here, for the first time, Cal/EPA intends to provide information on environmental enforcement in California and describe the progress that has been achieved in the last three years both at Cal/EPA and its Boards and Departments. Recent statutory changes have given the Cal/EPA Office of the Secretary an independent enforcement role. This report reflects these changes and differences.

Cal/EPA enforcement accomplishments include:

- Rebuilding California's environmental enforcement infrastructure.
- New and improved enforcement training.
- Stabilized funding for the Circuit Prosecutors program to improve statewide consistency by assisting small counties.
- New initiatives to coordinate enforcement cases on a cross media, cross program basis.
- The first cross media review of a specific industrial sector.
- Creation of a Cal/EPA cross media enforcement unit to assist state and local entities with complex cases.
- Creation of the first statewide underground tank enforcement unit.
- Improved public access to enforcement information including enforcement home pages on the Internet that includes enforcement orders issued by Cal/EPA Boards and Departments.

This report also includes information from each of Cal/EPA's Boards and Departments. It is meant to be a snapshot and not a complete description of enforcement activities. As each of Cal/EPA's Boards and Departments has a very different enforcement mandate, inspection and permitting protocols as well as different enforcement mechanisms, information for the report was gathered from a variety of sources of existing information. Therefore, differences will be noted such as whether data is kept on fiscal year or calendar year basis.

¹ For a complete list of acronyms used in this report, see Appendix A, page 80.

Contained in this report are both quantitative information as to numbers of inspection, number of enforcement actions and qualitative information as to initiatives and improvements. This report does not include all environmental enforcement activities that occur throughout California. For example, some enforcement actions taken by local environmental agencies are not included as this information is not required to be gathered and transmitted to the state and therefore is not easily available.

The enforcement of environmental laws is at its core, a traditional exercise in law enforcement. It involves the identification of illegal activity, remedying the harm, and punishing the violator. For the enforcement program to fulfill its role, there must be a sufficient numerical enforcement presence to deter violators and processes that ensure swift and predictable action, ensure a level playing field for business and a consistent level of community protection. The first steps taken to fulfill this mission were to review Cal/EPA's overall structure and set a clear vision and goals.

BACKGROUND

Though California has long led the nation in environmental protection, the trend towards increasing environmental protection has been a cyclical journey. In the early to mid-1990's, the resources of Cal/EPA's Boards and Departments were limited due to economic recession and were increasingly directed toward industry compliance assistance and voluntary compliance programs. Traditional enforcement programs suffered budgetary shortfalls and reduced support. Many agencies deleted the word "enforcement" from their official vocabularies. These voluntary and educational approaches to industry compliance, while beneficial in many respects, were found to be ineffective in deterring environmental violations. Environmental enforcement programs and compliance rates deteriorated. What was made clear by this experience is that in order to achieve needed compliance with environmental standards all regulatory tools should be used, but enforcement is the foundation upon which the others must be built.

California has a very decentralized environmental regulatory system, particularly in the enforcement area. The majority of environmental enforcement activities including permit, inspection and enforcement activity, is under the jurisdiction of local government. Prior to 2000, there was no statewide mandated coordination of environmental enforcement activity. Cal/EPA could suggest and recommend, but had no statutory authority to lead.

Assembly Bill 1102 (1999) represented a milestone in environmental enforcement in California. This legislation added Section 12812.2 to the Government Code and created new responsibilities for the Cal/EPA Deputy Secretary for Law Enforcement and Counsel (see below for details). Cal/EPA has utilized these new enforcement tools to improve statewide coordination of environmental enforcement and to re-establish enforcement as a primary compliance assurance mechanism.

CAL/EPA'S ENFORCEMENT ACCOMPLISHMENTS

A. CAL/EPA'S MISSION AND VISION

Cal/EPA's mission is to improve environmental quality in order to protect public health, the welfare of our citizens, and California's natural resources. Cal/EPA seeks to achieve its mission in an equitable, efficient, and cost-effective manner. The vision of Cal/EPA is described in a document published In July 2001, that describes many ambitious goals including:

- GOAL 1 Air that is healthy to breathe, sustains and improves our ecosystems, and preserves natural and cultural resources.
- GOAL 2 Rivers, lakes, estuaries, and marine waters that are fishable, swimmable, support healthy ecosystems and other beneficial uses.
- GOAL 3 Groundwater that is safe for drinking and other beneficial uses.
- GOAL 4 Communities that are free from unacceptable human health and ecological risks due to exposure from hazardous substances and other potential harmful agents.
- GOAL 5 Reduce or eliminate the disproportionate impacts of pollution on low-income and minority populations.
- GOAL 6 Ensure the efficient use of natural resources.
- GOAL 7 Continuous improvement and application of science and technology.
- GOAL 8 An efficient and effective Cal/EPA in pursuit of its mission.

("Strategic Vision" Cal/EPA; July 2000 pages 10-11.)

The Strategic Vision also notes that to achieve these goals, enforcement has a role to play. By promoting integrated permitting, inspection and enforcement programs; by expanding and improving cross media communications, collaboration, and training; by establishing agency-wide enforcement policy, standards and reporting;

and always, by conducting continuous evaluations of program effectiveness, enforcement is an indispensable component of Cal/EPA's environmental protection mission.

As part of the Secretary's preparation for the organizational and fiscal reviews requested by the Governor and Legislature in 1999, a report was commissioned to get an overall review of Cal/EPA. This report identified a number of essential components to an effective enforcement program, many of which are addressed in this report:

"There should be an overall prioritization of enforcement activities to address those who cause the most environmental harm. Cross media prioritization assures that the worst polluters are targeted on a comprehensive basis."

"There must be sufficient enforcement activity to deter those who are not inspected from violating the law."

"Inspectors must be well-trained."

"There must be a consistent, fair, and rapid enforcement process, with opportunities for interaction with the regulated entity at the beginning, middle, and end of the process."

"There must be an emphasis on corrective action (or injunctive-type relief) to stop further violations."

"Fines and penalties must be consistent among programs and among violators to maintain a level playing field, they must deprive violators of the economic benefit of noncompliance, and they should deter further violations without being out of proportion to the violation committed or harm (if any) caused to the environment."

(A Structural and Fiscal Review of the California Environmental Protection Agency"; Cal/EPA; February 2000; pages 33-36.)

This was a framework from which Cal/EPA sought to rebuild enforcement programs.

B. NEW RESPONSIBILITIES FOR THE CAL/EPA DEPUTY SECRETARY FOR LAW ENFORCEMENT AND COUNSEL

The impetus that created Cal/EPA over a decade ago was the recognition that there was a need for a consistent, and coordinated cross media approach to environmental protection in California. This same recognition resulted in legislation that took the next logical step--to give Cal/EPA the authority to investigate violations

of environmental laws, refer cases to prosecutors and to coordinate training of environmental inspectors.

Assembly Bill 1102 (1999) created new responsibilities for the Deputy Secretary for Law Enforcement and Counsel position:

- 1) To develop a program to ensure that Cal/EPA boards, departments, and local agencies take consistent, effective, and coordinated enforcement actions. The program shall include training and cross training of inspection and enforcement personnel.
- 2) To establish a cross media enforcement unit to assist Cal/EPA boards, departments, and local agencies to investigate matters for enforcement action. This unit has subpoena powers as provided in Government Code section 11180.
- 3) The authority to refer a violations of a law or regulation within the jurisdiction of Cal/EPA boards and departments or local agencies to the Attorney General, district attorney, or city attorney for the filing of a civil or criminal action. (Gov. Code, §12812.2.)

As detailed in this report, Cal/EPA's initiatives regarding training, cross media case coordination, investigative assistance, and case referrals, have been instrumental in satisfying the legislative mandate.

C. ENFORCEMENT BUDGETS

An enforcement program needs sufficient resources to be effective. Cal/EPA has taken several steps to provide its programs with the requisite resources. In 1999, incoming Cal/EPA Secretary Winston Hickox, requested that Cal/EPA Boards and Departments review all their enforcement programs and identify the regulatory, statutory, policy and budgetary changes needed for improvement. This information was compiled in documents entitled, "Enforcement Initiatives" and was used for many purposes, including preparing the budget for fiscal year 2000-2001. The Davis Administration proposed a successful augmentation for environmental enforcement programs.

In fiscal years 1999-2000 and 2000-2001, Cal/EPA was successful in restoring enforcement budgets and rebuilding lost infrastructure in staff, equipment and training.

1. FISCAL YEAR 1999-2000 BUDGET

In 1999-2000, \$500,000 was appropriated to fund the new enforcement mandates of AB 1102 (1999) (Gov. Code, § 12812.2) in the Office of the Secretary. In fiscal year 1999-2000, these funds were allocated for:

- 1) \$150,000 for funding for the CDAA Circuit Prosecutor's Program. Details regarding this program are provided below.
- 2) \$250,000 was used to fund a new legal and enforcement position at Cal/EPA and 2.5 agency positions housed at the Air Resources Board to develop and deliver Cross Media training.
- 3) \$100,000 for support of the training provided in the Cal/EPA Cross Media Enforcement Symposium.

In addition, the Administration also established at the State Water Resources Control Board (SWRCB) the first statewide underground tank enforcement unit.

2. FISCAL YEAR 2000-2001 BUDGET

This was the year of the Cal/EPA Comprehensive Enforcement Budget Plan. This proposal was drafted based upon information derived from the Enforcement Initiatives requested by the Secretary in 1999. The proposal requested additional resources to help reverse the enforcement pattern of the last decade and was structured to address a number of new regulatory/statutory requirements. The comprehensive approach enabled the Cal/EPA boards and departments to move forward in a coordinated effort, provide measurable improvement and address: 1) critical environmental enforcement needs; 2) compliance actions historically delayed due to insufficient program resources, particularly in the area of cross media enforcement; and, 3) training and infrastructure tools, such as updated laboratory analytical equipment and compliance data.

For fiscal year 2000-2001, an augmentation of \$6 million (including 52 positions) was approved in the Budget Act. These appropriations provided:

- 1) Air Resources Board (ARB): A substantial increase in air district subvention funds and funds to upgrade and replace equipment and instrumentation, 3 positions and \$431,000 to augment the cross media enforcement training program with for training staff, equipment, and contract money for producing high quality training materials for all environmental agencies in California.
- 2) California Integrated Waste Management Board (CMWB): 10 positions for the illegal dump site characterization and enforcement program.
- 3) California Department of Pesticide Regulation (CDPR): 5 positions to develop strategies for program improvements through continuous evaluation of goals, priorities, and performance indicators and to increase capabilities to coordinate multi-jurisdictional and multi-media investigations.

- 4) The State Water Resources Control Board (SWRCB): 7 positions to strengthen its enforcement program's ability to take formal enforcement actions against dischargers who habitually violate the provisions of their permits and state and federal law; and 1 position to establish a Criminal Investigations Support and Training Officer to coordinate potential criminal actions. Additionally, SWRCB received 2 positions for the water rights compliance and enforcement program to augment its existing resources for the protection of prior water rights and environmental resources.
- 5) Department of Toxic Substances Control (DTSC): 27 positions that included Task Force Support, criminal investigator positions, and \$549,000 to upgrade outdated lab equipment;

D. CROSS MEDIA ENFORCEMENT

A Cross Media Enforcement Coordinating Group was established in 2000 and consists of representatives of each Cal/EPA's Boards and Departments. The group continues to meet and provide input and direction on long range cross media enforcement and policy direction issues such as the collection of environmental enforcement data.

In June 2000, the Air Resources Board (ARB) and Cal/EPA executed a Memorandum of Understanding (MOU) to formalize and extend their working relationship involving cross media environmental enforcement activities. The MOU designates staff at ARB as Cal/EPA's Cross Media Enforcement Unit for purposes of Government Code section 12812.2. The Department of Toxic Substances Control also contributes to cross media enforcement efforts through its Criminal Investigations Branch and Complex Investigations Unit. Other Cal/EPA Boards and Departments contribute resources on an as needed basis. Pursuant to these agreements, cross media investigation and case development included the following:

1. CROSS MEDIA INVESTIGATIONS

Several pending cross media enforcement cases have been identified and investigations are underway thus utilizing cross media enforcement tools and methods. At the time this report was written, these investigations were still in the confidential stage.

2. CROSS MEDIA ENFORCEMENT PROJECTS

This section outlines specific proactive projects that Cal/EPA has accomplished and is pursuing in order to improve and make more effective environmental enforcement in California.

a. The Chrome Analysis Project: Cross Media Inspections and Analysis of a Single Industry

This project marks one of the first times in California that a source category has been studied from a multi-media perspective in a systematic manner. This pilot project was coordinated by the Air Resources Board Compliance Division and reflects the work done by Cal/EPA staff (DTSC, SWRCB, RWQCB), in cooperation with U.S. EPA and a large number of local agencies. The study involved inspection of 37 chrome plating operations in the Los Angeles area in a multi-program fashion by incorporating representatives from appropriate State and local agencies into inspections where compliance with all media (air, hazardous waste, water), could be documented during a single visit. The chrome plating project is significant because it marks one of the first times in California that a source category has been studied from a multi-media perspective in a systematic manner. It is our hope that studies of this type will enhance multimedia enforcement coordination and compliance assistance among Cal/EPA agencies. (The Multi Media Chrome Plating Project Report is available at <http://www.arb.ca.gov/enf/chromeplating.htm>)

Thirty-seven facilities were inspected for compliance with air, stormwater and hazardous waste requirements. The results were that 89% of the shops had at least one violation; 43% had at least one violation in all three program areas. Eighty-nine percent had an air district (South Coast) violation and, of these, 73% were violations regarding hexavalent chromium and 16% received Notices of Violations from the district based on excess chromium emissions. Enforcement actions included: 1) three administrative actions by the Department of Toxic Substances Control, 2) 16 Notices of Violations and imposition of penalties by the South Coast Air District, and 3) one case was referred to the District Attorney for further investigation.

b. Jewelry Mart: A Project Using Enforcement and Compliance Assistance Outreach

Cal/EPA became aware of uncontrolled releases of hazardous jewelry manufacturing wastes from the jewelry businesses in downtown Los Angeles in an area known as the "Jewelry Mart." Cal/EPA coordinated investigation by the Air Resources Board, the Department of Toxic Substances Control (DTSC) and local unified program agencies. This case involves 30-40 building and hundreds of small to large businesses. An enforcement case on specific individuals was referred to the Attorney General's Office. Cal/EPA, ARB and DTSC worked with local officials and industry in a coordinated outreach effort to inform the Jewelry Mart businesses of the regulatory requirements and compliance assistance information.

In early 2002, an outreach and education seminar was put on for the Jewelry District by a joint effort of the local business community, the City of Los Angeles and state and local environmental regulatory agencies. This will be followed by communication with the building owners in the District and by inspections of the buildings. It is the aim of the outreach and education efforts to give the owners and tenants information they need to come into voluntary compliance and reduce the hazardous materials used in their businesses. Those who do not take advantage of these efforts and remain in violation will be subject to enforcement actions.

3. ENVIRONMENTAL TASK FORCES

One of Cal/EPA's traditional roles in the arena of environmental enforcement is the support of environmental task forces throughout California. The coordination of inspection and enforcement efforts improves government efficiency, brings benefits to industry in providing a level playing field for fair competition, as well as more consistent protection of public health and the environment. This has been improved and expanded to provide investigation support and coordination in many different areas.

The environmental task force (or strike force), approach of combining regulatory and law enforcement resources of constituent members has proved a particularly effective tool because of the multimedia nature of the enforcement process. Enforcement task forces are comprised of voluntarily participating state, local, and federal agencies with enforcement authority. The effectiveness of the task force approach is due to the pooling and exchange of resources and intelligence between different law enforcement and regulatory agencies. The resulting partnerships allow task force members to pursue investigations in which no single entity would possess the resources and information-gathering ability to complete the task individually.

The advantages utilizing the task force concept as an enforcement tool include:

- Allows all entities with interest in environmental matters to gather together
- Exchange of information
- Allows cross training
- Encourages resource sharing
- Opportunity for regulatory agencies to meet and know prosecutors
- Promotes more consistent enforcement

Typical participating agencies include at the local level:

- Deputy District Attorney, Deputy Attorney General or Assistant U.S. Attorney (as Chair)
- Air Pollution Control District
- County/City Environmental Health Department
- County/City Code Enforcement
- County/City Fire Department
- Agricultural Commissioner
- Flood Control, Sanitation, Public Health Agencies

State representatives may include:

- Cal/EPA
- Air Resources Board
- Department of Toxic Substances Control
- Regional Water Quality Control Boards
- California Highway Patrol
- Department of Fish and Game
- Attorney General's Office

Federal representatives may include:

- United States Environmental Protection Agency
- FBI
- U.S. Attorney's Office
- Bureau of Land Management
- U.S. Fish and Wildlife Service
- Department of Transportation

The effectiveness of the Environmental Enforcement Task Forces cannot be overemphasized, and the presence today of environmental task forces in almost all of California's 58 counties is testament to the effectiveness of these task forces and the dedication of the involved personnel.

Contact Information for California's Environmental Task Forces is available At <http://www.calepa.ca.gov/Programs/TaskForce/DTSCContact.htm>.

4. ENVIRONMENTAL ENFORCEMENT IN THE BORDER AREA

With the advent of the North American Free Trade Agreement (NAFTA), and the subsequent increase of new business and industry in the California/Mexico border region, the environmental pressures and challenges along the border have never been greater. Cal/EPA is meeting these challenges with innovative thinking and dedication. In addition to the activities of the Border Affairs Unit, Cal/EPA has coordinated many projects to improve enforcement at the border.

Deputy Secretary for Law Enforcement and Counsel staff co-chair the Border Environmental Enforcement Task Force; a group of Federal, State and local officials that meet quarterly in the Mexican/California border area to discuss border-related environmental enforcement issues. The task force works with border environmental enforcement issues concerning such issues as:

- Training needs for task force members
- Air issues such as agricultural burning
- Water pollution issues such as industrial pretreatment, sewage and industrial discharges
- Hazardous materials issues such as storage in customs brokers facilities
- The Maquiladora (foreign owned manufacturers located in the Mexican border area) and international transportation of hazardous waste
- Tires and solid waste (illegal dumps) in the Border region
- Cross border purchases and use of pesticides.

Staff also co-chairs a bi-national environmental enforcement workgroup that also meets quarterly and includes Mexican environmental enforcement officials.

Border enforcement accomplishments include:

- Work with the U.S. Fish and Wildlife and Mexican officials to repatriate recovered plant and animal life illegally imported into U.S. from Mexico. For example, in 2000, 70 endangered species birds were intercepted at the border and were returned to the wild in Mexico.
- Coordination of New River research by the Regional Water Board aimed at determining source(s) of pollutants, and communicating this

information to both California and Mexican officials so they could focus their enforcement efforts on the sources.

- Establishment of an 800 number accessible by citizens in Mexico to call in complaints on agricultural burning if it drifts across the border.
- Work with Mexican environmental protection agency (PROFEPA) in removing hazardous wastes found in Mexico that originated in the U.S.
- Workshops in the border area on waste classification and pollution prevention.
- Work on joint emergency response planning and training exercises.

Cal/EPA continues to look ahead and build new relationships with organizations to assist in helping it achieve its mandate to enforcement environmental laws. Cal/EPA has made contact with the Mexican Attorney General for Environmental Protection, Procuraduria Federal de Proteccion al Medio Ambiente (PROFEPA), its Mexican equivalent across the border to the South. Cal/EPA Border Affairs Unit and SEMARNAT (the Mexican Environmental Protection Agency) have entered into a cooperative agreement to assist in exploring environmental protection and enforcement issues on both sides of the border. Examples include an agreement to help the City of Tijuana implement a smog inspection program for its city owned vehicles and agreements to share water monitoring information and to improve waste water treatment in border areas.

As mentioned above, Cal/EPA staff co-chairs the Border Environmental Enforcement Task Force. The Cal/EPA Law Enforcement and Counsel Unit provided staff assistance to Cal/EPA's Border Affairs Unit to assist in two Border Environmental Tours attended by the Integrated Waste Management Board and Agency staff. The Deputy Secretary for Law Enforcement and Counsel directed the development and participated in an environmental enforcement panel at the Conference of Western Attorneys General's United States/Mexico Attorneys General Border Conference.

In 2001, the Deputy Secretary for Law Enforcement and Counsel directed the development of and spoke on an environmental enforcement panel for the XXth Border-States Attorneys General Conference sponsored by the Conference of Western Attorneys General (CWAG) that included Attorneys General from the United States and Mexico.

Outreach is being made to members of tribes in the border region to encourage participation in Cal/EPA programs such as the Border Taskforce, training, and the State and Tribal Enforcement Grant Program. All these border related activities are aimed at encouraging consistent, effective compliance and enforcement efforts in the border area.

Finally, the Deputy Secretary was recently named the U.S. state representative to the North American Enforcement Working Group of the Commission for Environmental Cooperation, an international organization created by Canada, Mexico and the United States under the North American Agreement on Environmental Cooperation, established to address regional environmental concerns, help prevent potential trade and environmental conflicts, and to promote the effective enforcement of environmental law. The Agreement complements the environmental provisions of the North American Free Trade Agreement (NAFTA).

5. OUTREACH WITH CALIFORNIA TRIBES

Cal/EPA Office of the Deputy Secretary for Law Enforcement and Counsel staff have made contact with various California Tribes, U.S. EPA, and the U.S. Department of the Interior Bureau of Indian Affairs, to forge new ideas to ensure that tribal concerns are heard at the different Task Forces in their areas. Tribal representatives have attended environmental task forces last year, and their participation will be encouraged in the future. Tribes have also been invited to attend Cal/EPA enforcement training events.

6. IMPROVING STATE CONSISTENCY: THE CIRCUIT PROSECUTOR'S PROJECT

The Environmental Circuit Prosecutor Project (the "Project") is a unique program that provides experienced environmental prosecutors for California's rural counties. The Project began in early 1998 and was initially funded as a three-year pilot program. The Project has become an important part of California's environmental enforcement landscape.

The Project has been instrumental in bringing environmental enforcement to many of California's smaller counties. Since its inception, the Project has processed over 707 environmental cases², both civil and criminal, and obtained more than \$15.6 million in fines, penalties, costs, and supplemental environmental projects. In 2001 alone, more than \$12 million was obtained in fines, penalties, environmental projects and cost recovery. Circuit prosecutors have obtained significant jail time for egregious offenders. The Project also provides training and support to attorneys, law enforcement and regulatory staff at both state and local levels.

Adequate funding so the Project can reach all small counties remains a challenge. In 2001, the Project lost one third of its funding base, due in part to the discontinuation of federal funding. Assembly Member Keeley carried legislation (AB 960 (2001))

²The "total" number of cases represents those cases not considered "minor" and that generally require two or more court appearances. The Project does not track the number of minor Fish and Game infractions handled by Circuit Prosecutors each year. For example, in 2000, the Project processed more than 1,000 minor Fish and Game cases.

which would have appropriated \$300,000 (General Fund) via the Office of Criminal Justice Planning.³ Unfortunately, AB 960 coincided with an energy crisis, the events of September 11, 2001, and a deteriorating economy. In vetoing the bill, Governor Davis expressed his continued support for the Project and directed state environmental agencies to investigate ways in which the Project could be funded on a long-term basis. The Governor said, "I am directing the Environmental Protection and Resource Agencies to bring affected state agencies and stakeholders together to help craft a long term solution for supporting the [Project]." A group of stakeholders met in 2001-2002 to address the direction given in the Governor's veto message. A new bill, AB 2486 (Keeley), outlines the consensus proposal. This bill would establish the Local Environmental Enforcement and Training Act of 2002, creating a flexible source of local assistance funding for local prosecution assistance as well as public prosecutor, investigator, and environmental regulator training. The source of money for the fund would be donations from civil and criminal case settlements that provide for contribution to the fund, as well as from other types of donations.

Cal/EPA is dedicated to ensuring the success of the Project and is exploring options through the Legislature and budgetary processes to replace the reduced federal assistance. In early 2002, the State Water Resources Control Board authorized an additional \$300,000 from the Clean Up and Abatement Fund to support specified Circuit Prosecutor Project activities. The Department of Fish and Game and the Attorney General's Office also provide funding for the Project.

E. ENFORCEMENT TRAINING

One of the Cal/EPA Deputy Secretary for Law Enforcement and Counsel's primary responsibilities is to provide cross media training for inspectors. In the last three years, new training programs have been instituted and are now recognized as models for other states.

In order to form a successful investigating team, the environmental enforcement professional must be well trained, and Cal/EPA has made the training of environmental enforcement personnel a top priority. The courses it has developed and supported have been well received, and continue to provide the latest information available to the inspector's and investigators that enforce environmental laws.

1. CAL/EPA BASIC INSPECTOR ACADEMY

In 2000, Cal/EPA and staff from the Boards and Departments developed the "Cal/EPA Basic Inspector Academy" (Academy) which targets core skills and establishes a knowledge baseline for all inspectors operating under the Cal/EPA

³ The Project currently receives approximately \$400,000 annually in the Budget Act (via Cal/EPA) and \$200,000 from the Department of Fish & Game. These entities, along with DTSC, also provide in-kind resources including staff.

umbrella and others including Tribal EPA staff. The training is lead by a multi-disciplinary team of instructors, environmental professionals, and attorneys.

The Academy is intended to provide the skills necessary for new inspectors so they may be provided with a foundation of the skills necessary to successfully interact with, and communicate the importance of regulatory compliance to, the regulated community. The training covers many basic investigation/inspection techniques that are needed by entry-level inspectors, as well as cross media issues that generally are not covered by other training inspectors receive. The Academy consists of both classroom presentation and inspection exercises. The courses syllabus includes such topics as: Environmental Law, Environmental Science, Inspection Overview, Elements of a Violation, Report Writing, Resolution of Non-Compliance, Working with other Agencies, Working with Task Forces, Interviewing, Evidence and Sample Collection, Report Analysis, and Field Safety.

The Academy is held on a quarterly basis, free of charge to those who attend. It is comprised of 80 hours of classroom instruction divided into two 40-hour (one-week) sessions. Locations alternate between Southern and Northern California. In 2000, the first year the Academy was given, 82 regulatory personnel attended the Academy training. Participating agencies included:

- Agricultural Commissioner's Offices
- Department of Toxic Substances Control
- State Water Resources Control Board
- Air Resources Board
- Regional Water Quality Control Boards
- Certified Unified Program Agencies
- Air Districts
- Local Flood Control and Sanitation Districts
- County Weights and Measures
- County Environmental Health
- City and County Fire Departments

2. THE CAL/EPA CROSS MEDIA ENFORCEMENT SYMPOSIUM

The Symposium is an annual 4-day training event that is open to environmental professionals at all levels of government, industry and members of the public, with approximately 300 individuals attending each year. Training sessions cover enforcement programs specific to each of Cal/EPA's Boards and Departments and their local counterparts. Mock administrative, civil and criminal proceedings are presented to allow regulators to experience how their work can affect each type of proceeding. In 2002, the Symposium was modified from its prior format into more of an advanced continuing education component to better provide inspection staff with up to date information concerning current issues in cross media environmental enforcement.

3. TRAINING INFORMATION CLEARINGHOUSE

Cal/EPA and BDO staff worked to create an Inspector Training Clearinghouse on the Internet at site <http://www.calepa.ca.gov/Enforcement/Training/Clearinghouse.htm>. This web page provides one stop shopping for environmental inspectors at both the state and local level. The Clearinghouse is designed to facilitate consistent and effective enforcement across environmental disciplines, encourage cross training, and help agencies share limited training resources. In addition to basic inspector training, the web page contains links to courses in air pollution, water pollution, hazardous waste, solid waste, and pesticide regulation. This project is nearing completion and should be available on the Internet in early 2002. Cal/EPA is at the forefront of providing continuing support to environmental enforcement professionals throughout California.

4. ENVIRONMENTAL CRIMES – SPECIAL INVESTIGATION FORENSICS

Cal/EPA is collaborating with the University of California Riverside Extension Offices to develop a new course that focuses on the latest criminal investigation methodology available to environmental investigators. The first offering of this course, *Environmental Crime Scene Investigations- Forensic Techniques for the 21st Century* is tentatively schedule for summer 2002. This course will focus on the latest forensic techniques in available in the investigative world and show how they can be utilized in the environmental context.

F. CAL/EPA'S CERTIFIED UNIFIED PROGRAM AGENCY PROGRAM

In 1993, the Unified Program was created to consolidate and coordinate the inspection and permitting functions of 6 environmental programs. The six program elements included in the program are the underground storage tank program, the above ground tank program, the hazardous waste generator program, the hazardous materials business plan program, the accidental release of hazardous substances program, and the hazardous materials elements of the Fire Code. Collectively the Unified Program regulates 120,000 businesses within California. As of July 2001, the program staff for the CUPA program resides at Cal/EPA in the Office of the Secretary.

1. CUPA ENFORCEMENT WORKGROUP

To work cooperatively on improving CUPA enforcement, a CUPA Enforcement Workgroup was established consisting of representatives of the Cal-CUPA Forum, DTSC, and Cal/EPA. The group's goal is to improve enforcement by CUPAs statewide. As its first joint project in 1999, this workgroup developed a guidance document, "Guidance for the Preparation of Inspection and Enforcement Program Plans," to assist CUPAs in making their inspection and enforcement programs consistent, and compliant with all applicable requirements. The document

summarizes the existing statutory and regulatory enforcement options of the four Unified Program elements that have them, and recommends an approach to enforcement that is consistent with the Department of Toxic Substances Control's (DTSC's) enforcement response policy.

Another workgroup accomplishment was the 1999 agreement entered into by Cal/EPA entered into an agreement and the CUPA Forum to improve administrative enforcement processes in the hazardous waste program. This improvement program resulted in the development of a standardized enforcement program plan, the development of standardized administrative order processes, and training of individuals from all CUPAs in how to issue administrative orders for violations of the hazardous waste laws. As a result of this vigorous outreach effort, seven AEO's were issued by CUPAs in 2001 for hazardous waste violations such as mismanagement of containers, lead-acid batteries, or inadequate labeling of drums. Many more were issued in 2002 (exact numbers not available as of the date of this report). Long term plans include continuing assistance to insure that this valuable enforcement tool is fully utilized.

The workgroup also worked collaboratively with Cal/EPA in producing a legislatively mandated report in 2001 that identified barriers to consistency in the CUPA enforcement program (Cal/EPA's Report to the Legislature is entitled, "Recommendations to Improve Unified Program Enforcement Consistency." It is located at <http://www.calepa.ca.gov/CUPA/Reports/Improve01/improve.pdf>. One of the barriers identified was the lack of a unified administrative enforcement order process. For all but two of the CUPA program elements, there is not an option for enforcement without a formal referral to a district attorney or other prosecutor. The existing administrative penalty authority is for hazardous enforcement and hazardous materials management plan programs only. In addition, the administrative procedures provided for in the two programs were completely different and seldom used.

Cal/EPA held workshops in 2001 to discuss the possibility of a legislative proposal for a unified administrative enforcement order (AEO) authority to allow CUPAs to pursue administrative actions in all their programs. This will give CUPA's a viable enforcement alternative in those cases not rising to the level of a formal referral to a prosecutor. This will also allow the CUPA's to work more closely with the local business community and ensure that the penalties are fair and measured. Finally, the proposal would make it easier to measure consistency amongst the six programs and would be fairly inexpensive to implement. AB 2481 (2002 Frommer) contains this proposal and is pending in the Legislature.

2. RURAL CUPA ASSISTANCE FUNDING

One of the reasons that counties have not become a CUPA is their inability to fund the program through fees assessed on regulated businesses. Cal/EPA reported these limitations in a January 2001 legislative report. SB 1824 (2000) created the

Rural CUPA Reimbursement Account. This account will allow for a grant of up to \$60,000 annually to each rural county seeking CUPA certification. As a result of these funds becoming available, 13 counties have indicated they intend to now become CUPAs. implement.

3. UNIFIED PROGRAM INFORMATION MANAGEMENT

Health and Safety Code section 25404(e)(2) requires the Secretary of Cal/EPA to establish an electronic geographical information management system capable of receiving all data collected by the Unified Program and to make all non-confidential data available on the Internet. The first step in development of this data system is the development of a Feasibility Study Report (FSR), which describes the system to be developed, the process to be used for development, and the cost. A FSR for this data system was completed in early 2001 and submitted to the Department of Information Technology for approval.

The first phase of development proposes the creation of a web-based Geographical Information System that will display all of the businesses regulated by the Unified Program and identify under what program each business is regulated. This inventory of regulated businesses will contain hazardous material information on an estimated 120,000 regulated businesses.

4. NEW UNIFIED PROGRAMS

The Secretary for Cal/EPA has certified three new CUPAs, all of which began conducting the program in July of 2001. These new programs are in the County of Yuba and the Cities of Anaheim and Sunnyvale. Cal/EPA intends to certify all of the jurisdictions that are not currently CUPAs or have a state-managed CUPA in place by July of 2002. This effort will complete the establishment of a statewide coordinated and consistent hazardous materials and hazardous waste program within California.

5. CUPA ENFORCEMENT STATISTICS

The success of an enforcement program cannot be measured by numbers of inspections and enforcement actions taken, as the ultimate goals are compliance and environmental protection. However, such statistical information remains an important part of any evaluation of enforcement programs.

INSPECTIONS⁴:	1997-1998	1998-1999	1999-2000	2000-2001
HMRR Plans	35,445	43,797	42,642	46,532
CalARP	278	488	562	693
Underground Tanks	10,335	13,579	9,029	10,311
HW Generators	30,311	29,910	32,967	29,850
Large Quantity Gen.s	741	658	675	778
Recyclers	168	78	215	166
Onsite H/W Treatment	607	782	934	633
Household H/W PBR	55	67	89	69

VIOLATIONS	1997-1998	1998-1999	1999-2000	2000-2001
HMRR Plans	6,746	8,071	59,985	10,772
CalARP	82	130	87	205
Underground Tanks	3,035	3,621	3,669	3,271
H/W Generators	5,253	14,941	18,631	15,033
Large Quantity Gen.s	487	391	274	299
Recyclers	88	144	59	83
Onsite H/W Treatment.	73	290	508	300
Household H/W PBR	6	23	24	10

INFORMAL ENFORCEMENT ACTIONS⁵:

	1997-1998	1998-1999	1999-2000	2000-2001
HMRR Plans	4,799	9,308	11,088	11,710
Cal ARP	82	328	159	354
Underground Tanks	2,374	4,153	2,248	3,586
H/W Generators	4,985	14,981	12,111	9,417
Large Quantity Gen.	158	344	213	187
Recyclers	45	148	78	81
Onsite H/W Treatment.	111	219	258	155
Household H/W PBR	4	13	14	9

⁴ Inspection information includes only routine inspections and may not include inspections incident to execution of warrants or complaint inspections. "HMRR" refers to the Hazardous Materials Release Response Plan and Inventories; "CalARP" refers to the California Accidental Release Prevention; H/W refers to the hazardous waste program that includes large quantity generators, recyclers, onsite treatment, household hazardous waste programs and permit by rule.

⁵ "Informal Enforcement" includes notices to comply (no fines) or other non-penalty verbal or written warnings. "Formal Enforcement Actions" include administrative, civil or criminal actions.

FORMAL ENFORCEMENT ACTIONS:

	1997-1998	1998-1999	1999-2000	2000-2001
HMRR Plans	125	148	266	671
Cal ARP	0	2	1	2
Underground Tanks	63	105	188	123
H/W Generators	92	204	323	271
Large Quantity Gen.	4	4	2	9
Recyclers	0	0	1	1
Onsite H/W Treatment.	3	2	7	5
Household H/W PBR	0	1	0	0

As a result of these efforts described above, the Unified Program has seen a significant increase in the number of violations identified and enforcement actions taken by CUPAs during the last three years. In 1998, the CUPAs reported making a total of 77,940 inspections for all programs. In 2001, they reported making a total of 89,032 inspections an increase of 14.2 percent. While these statistics represent an increase in inspection activity as the programs matured they are only a minor part of the success story.

During the same period of time the number of violations observed by the CUPAs increased by 90 percent (15,770 to 29,973), the number of informal enforcement actions taken increased by 102 percent (12,558 to 25,490), and the number of formal enforcement actions increased by 277 percent (287 to 1082). These statistics indicate a significant increase in the enforcement actions taken by the CUPAs in a very short time following the efforts to improve the program.

The CUPAs continue to improve their enforcement programs and their data collection and standardization efforts. Cal/EPA is confident that the improvement of these local programs will be reflected in the improvement of human health and the environment.

6. CURRENT EFFORTS BY CAL/EPA AND THE CAL-CUPA FORUM

Regulations are currently under development by DTSC to incorporate DTSC's enforcement response policy into Title 27 Unified Program regulations. The new regulations will establish standards for the CUPAs' hazardous waste inspection and enforcement programs, including criteria for classifying violations and violators, appropriate enforcement response options that take the classifications into account, and a requirement for timely initiation of enforcement responses. The regulations will establish minimum inspection frequencies for hazardous waste generators, conditionally exempt small quantity generators of silver-only waste, and generators of universal waste.

As described above, Cal/EPA and the Cal-CUPA Forum continue to work on obtaining new uniform administrative enforcement authority for the CUPA programs.

Cal/EPA, the Office of Emergency Services, the State Fire Marshal and the Cal-CUPA Forum have formed a training advisory group to review training programs and design new programs for identified unmet needs.

G. SIGNIFICANT ENFORCEMENT LEGISLATION 1999-2001

The past three years have seen the passage of many new environmental laws. Those affecting enforcement programs are summarized below.

AB 1102 (1999)

This legislation codified for the first time the position of Deputy Secretary for Law Enforcement and Counsel in Cal/EPA and gave that position new enforcement authority (see Gov. Code, § 12812.2). This legislation requires Cal/EPA to develop a program to ensure that Cal/EPA offices, boards and departments and their local counterparts take consistent, effective, and coordinated enforcement actions to protect public health and the environment. This program includes training of inspection and enforcement personnel of state and local agencies. In addition, a Cal/EPA cross media enforcement unit was created to assist a state and local agencies to investigate environmental violations. Lastly, the bill gave the Cal/EPA the authority to refer cases to prosecutors such as the Attorney General and District Attorneys for the filing of civil or criminal cases.

SB 989 (1999)

SB 989 required that SWRCB review existing enforcement authorities. A report was prepared and delivered to the Secretary of Cal/EPA with recommendations for changes necessary to enable local agencies to take adequate enforcement action against owners and operators of underground storage tanks that failed to meet the 1998 upgrade requirements. Cal/EPA and the Cal-CUPA Forum are working together to implement the recommendations

SB 709 (1999)

SB 709 (Migden) created the first law requiring mandatory minimum penalties for serious and/or repeated violations at National Pollutant Discharge Elimination System (NPDES) facilities. NPDES facilities are facilities regulated under the federal Clean Water Act for regulation of discharges to surface waters. As indicated in the report below by the SWRCB, this has resulted in an increase in both the number and amount of administrative penalties imposed by Regional Water Quality Control Boards.

SB 1865 (2000)

SB 1865 (Perata), codified at Health and Safety Code section 42400.3, created the first felony for intentional violations of air pollution laws that causes great bodily injury or death. This legislation addressed the lack of serious criminal enforcement provisions in California's air program.

SB 1824 (2000)

In September 2000, the Governor signed a bill that created the Rural CUPA Reimbursement Account. This account will allow for a grant of up to \$60,000 annually to each county that is currently not a CUPA, which becomes a CUPA. As a result of these funds becoming available in the Fiscal Year (FY) 01-02 budget, 13 counties have indicated they intend to now become CUPAs.

AB 1058 (1999)

In 1999, Governor Davis vetoed AB 1058, a bill that selected out one industry for special treatment in enforcement matters after inspections and enforcement activities had been initiated. In his veto message the Governor stated his support of the basic tenet of many regulatory enforcement programs--that alleged ignorance of the law is not excuse. The Governor also indicated his concern that the bill attempted to influence the outcome of a pending enforcement action while the investigation is open and settlement discussions were in progress.

H. ENFORCEMENT DATA MANAGEMENT

The importance of information management cannot be overstated. Cal/EPA has identified Information management as a top enforcement priority in the months and years ahead.

Cal/EPA and its Boards, Departments and Offices ("BDOs") recognize the importance of being able to track enforcement related data, so that trends can be followed and resources properly allocated to where they are most needed. Much of this information should also be available to the public so that the status of environmental enforcement in California can be followed. Information management was identified as a priority in the Enforcement Initiatives of 1999, and upgrades and improvements to data tracking capabilities were achieved during 1990-2001.

Cal/EPA has made integrating enforcement data and making consistent the information that is tracked a top priority. Cal/EPA intends to provide access to enforcement and compliance data to meet future environmental program, governmental and public needs by identifying and coordinating access to standardized enforcement data among Cal/EPA's boards, departments and office, other governmental entities and the public.

Cal/EPA's objectives in this regard are:

1. To help facilitate streamlined data collection methods between Cal/EPA and its BDO's in order to reduce data collection errors and improve data collection timelines.
2. To coordinate with the BDO's to extract query reports from information collected in their databases allowing Cal/EPA to report comprehensive enforcement information.
3. To improve current enforcement web pages and develop new formats and methods for accessing and reporting enforcement information.

As the data management initiative progresses, Cal/EPA is confident that the quality of gathered information and the access to that information will greatly assist in environmental enforcement efforts.

Cal/EPA worked with the BDOs to launch "Enforcement Homepages" on the websites for each Board and Department with enforcement authority. Cal EPA has its own "Enforcement Homepage" that serves as a link to the BDO websites and other useful information (<http://calepa.ca.gov/Enforcement>).

I. ENVIRONMENTAL JUSTICE

Cal/EPA's enforcement policies and procedures require the fair and equitable enforcement of all environmental laws. This is an important step toward our goal of achieving environmental justice in California. Goal Five in Cal/EPA's Strategic Plan addresses Environmental Justice and sets the overall direction of the Environmental Justice Program within the Agency as follows:

"Reduce or eliminate the disproportionate impacts of pollution on low-income and minority populations.

OBJECTIVES:

- Minimize the public health and environmental impacts of existing facilities.
- Assist the Governor's Office of Planning and Research and local land use agencies in developing model land use ordinances which address siting of future hazardous materials, waste, transportation or handling facilities and activities.
- Reduce the impacts of pollution from existing hazardous materials, waste, transportation and handling facilities or activities.

- Assist the Department of Education in developing model school siting policies to avoid exposing children to pollution.

In California, Environmental Justice is defined as the “Fair treatment for people of all races, cultures, and incomes, with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies” (Gov. Code, § 65040.12). Laws enacted and amended in the last two years require Cal/EPA and its boards, departments and office to undertake a number of environmental justice activities. These activities include the development of a mission statement (Gov. Code, § 65040.12) and the convening of an Interagency Working Group and an Environmental Justice Advisory Council to begin identifying and addressing the issues and actions necessary to achieve environmental justice in California (Pub. Res. Code, §§ 71113-71114).

Cal/EPA is required by Public Resources Code section 71111 to conduct its programs, policies, and activities in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state. Cal/EPA is also required to promote equal enforcement of all health and environmental statutes; ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies; improve research and data collection; coordinate its efforts and share information with the USEPA; identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency; and consult with and review any information received from the Working Group on Environmental Justice.

In order to promote the equal enforcement of all health and environmental statutes, Cal/EPA staff is involved in the development of an environmental justice component for the Cross-Media Enforcement Symposium and the enhancement of the environmental justice module of the Cal/EPA Basic Inspector Academy. Focused enforcement initiatives within low income and minority communities are a component of Cal/EPA's Boards and Department's enforcement programs as well. The Air Resources Board (ARB) has developed specific enforcement projects and policies intended to benefit these communities including the Roadside Inspection of Heavy-Duty Diesel Trucks project in which the Enforcement Division of the ARB, in conjunction with the California Highway Patrol, conducts random roadside inspections of heavy-duty diesel trucks to monitor for compliance with emissions, environmental, and safety regulations. In the third quarter of 2001, ARB staff conducted 1,237 truck inspections in low-income and minority communities, predominantly near the Ports of Los Angeles and Long Beach, and in the Boyle Heights area of Los Angeles. Approximately seven percent of the vehicles received citations or notices of violation for noncompliance. Cal/EPA staff will foster similar enforcement-related projects throughout the Agency in 2002.

During 2001, staff provided legal support for the emerging environmental justice effort within Cal/EPA. Staff participated in the development and delivery of a training

course for Cal/EPA employees and management concerning the legal framework within which decisions are made and actions taken by Cal/EPA and its entities. Fair and equitable application of environmental laws and policies is critical to the success of the Cal/EPA environmental justice program. Training is the first step in implementing Cal/EPA's environmental justice program. Additional training classes will be offered on a monthly basis throughout 2002 with staff teaching the legal module of the curriculum.

Staff provided legal support for the initial meetings of the Interagency Working Group and the Environmental Justice Advisory Committee formed as part of the implementation of Government Code sections 71113-71114. These groups will be instrumental in forming an agency-wide environmental justice strategy for Cal/EPA. In 2002, staff will work toward developing a legal strategy for environmental justice including a review of existing programs, laws, policies and regulations to determine what actions are possible within the existing legal framework and also what changes or legislative fixes may be necessary.

Cal/EPA staff attended initial meetings with USEPA concerning complaints filed with that agency alleging violations of Title VI by one or more of the Cal/EPA boards, offices or departments. USEPA is pursuing resolution of the complaints through a mediated process that will include participation by Cal/EPA.

II

ENFORCEMENT SUMMARY DATA FOR THE CAL/EPA BOARDS AND DEPARTMENTS

The following enforcement information is specific to the Boards and Departments within Cal/EPA. The information has been gathered from numerous sources, including specific reporting requests, Internet postings and prior reports. The information below includes information related to goals and accomplishments for the period 1999-2001, statistical descriptions of the progress of enforcement activities generally, and in some instances comparisons to enforcement histories in the previous years. The differences in the Boards and Departments, their enforcement mandates, inspection and permitting processes and protocols is reflected in the individual style of their reports. The differences range from rather minor (whether data is reported in fiscal year or calendar year) to major differences in statutory enforcement authority, from those who have peace officer investigators, felony enforcement provisions and dual inspection/enforcement authority with their local counterparts to those who have very little field staff, no authority to inspect local facilities and few investigatory resources. The following information is meant to highlight the enforcement activities of the Boards and Departments.

III

AIR RESOURCES BOARD

A. ENFORCEMENT RESPONSIBILITIES OVERVIEW

The mission statement of ARB's Enforcement Division is 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.

B. ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001

1. CREATION OF THE ENFORCEMENT DIVISION

In 2001, steps were taken to consolidate all enforcement activities within the ARB. In prior years, stationary source enforcement programs (i.e., fuels, consumer products, asbestos, and cargo tanks) were housed within the former Compliance Division, while mobile source enforcement activities were administered by the ARB's Mobile Source Operations Division (MSOD). In April 2001, all enforcement activities consolidated within the newly established Enforcement Division (ED).

The purpose of this consolidation was to improve the consistency in ARB's enforcement practices, and to provide for a more standardized method of reporting enforcement data. One of the Enforcement Division's primary goals is the creation of a unified, integrated case-tracking database for all of ARB's enforcement functions.

Current Enforcement Division initiatives include:

- Developing a procedure to implement Section 27159 of the California Vehicle Code. This would provide a method by which the California Highway Patrol (CHP) would place heavy duty trucks and buses out of service at the request of the ARB, for failure of owners to clear violations of smoke opacity regulations.
- Working with the Attorney General's Office to secure a delegation that will enable staff to secure payment on civil judgments secured for delinquent citations for smoke opacity violations.
- Developing a method by which penalty payments may be made using credit cards in addition to personal checks, corporate checks, money orders, and certified checks.
- Working with the California Polytechnic State University, Pomona, and the California Council on Diesel Education and Technology to complete a new

video in English and Spanish that explains and demonstrates the Heavy Duty Vehicle Inspection Program, the Periodic Smoke Inspection Program

a. Initial Steps in Development of Integrated Enforcement Case Tracking Database

One of the more challenging issues encountered by ED and Office of Legal Affairs (OLA) staff is finding ways to keep current all the facts and actions relating to open enforcement cases. To date, each enforcement section has maintained a separate database of cases, and OLA has kept its own, independent database. Planning has begun to consolidate the ED and OLA databases

b. Monthly Case Review Meetings

Prior to the consolidation of all enforcement activities in the ED, it had been the practice of the Mobile Source Enforcement Branch to hold monthly case review meetings in conjunction with OLA, including Chief Counsel, Kathleen Walsh. After the reorganization, these meetings were expanded to include the stationary source enforcement programs for the fuels, consumer products, vapor recovery, cargo tanks, asbestos, and Strategic Environmental Investigations and Enforcement Section (SEI) staff. These meetings provide an opportunity for the Division management and staff to keep abreast of new and continuing cases, difficulties that may have surfaced during case resolution, settlement practices, and communication issues with OLA. These review sessions have proved an invaluable tool for not only increasing communication with management and OLA, but also for cross-educating enforcement staff on the nature of all types of enforcement cases within the Division.

c. Enforcement Activities Report

Prior to the creation of the ED, the Compliance Division and the Mobile Source Enforcement Branch had published an annual report of compliance and enforcement activities. The ED and OLA also publish enforcement statistics reports each fiscal year. These reports are submitted to Cal/EPA and other interested parties.

d. Monthly Enforcement Status and Expenditure Reports

Prior to the consolidation of all enforcement activities in the ED, it had been the practice of the Mobile Source Enforcement Branch (within MSOD) to prepare monthly status reports on program activities for the Division Chief. This process has been expanded to include mobile source reports and fuels, consumer products, etc. The confidential report that contains information on current enforcement actions is distributed to ED management, the OLA, and to Cal/EPA. These monthly status reports also track ED expenditures vs. budget for the fiscal year to date.

e. Enforcement Program Web Page

Information on the Enforcement Program is available on ARB's public website. (www.arb.ca.gov). The contents include overviews of the individual program elements, significant enforcement settlement press releases, and links to related enforcement areas, for example, mobile source in-use compliance programs in MSOD, air district enforcement responsibilities. The Enforcement Program page may be viewed at: <http://arbis.arb.ca.gov/enf/enf.htm>.

f. Enforcement Related Legislative Activities

Enforcement legislation and related budget actions for 1999-2001:

- During 1999–2001, ARB implemented provisions of SB 270 (1998 Peace), the “NAFTA Conformity Act.” Budget augmentations added 3 full-time heavy-duty diesel vehicle inspectors and operating equipment at ARB's California-Mexico border inspection stations at Otay Mesa and Calexico. This increased the Heavy-Duty Vehicle Inspection Program compliance rate from 50% to 85%.
- SB 527 (2001 Sher), created authority for ARB to develop an administrative civil penalties program. Development of regulations governing this program will be presented to the ARB's governing Board in late 2002.

2. MOBILE SOURCE ENFORCEMENT

The Mobile Source Enforcement Section is responsible for enforcing laws and regulations regarding motor vehicles and engines, including small off-road engines such as those in lawn and garden equipment. Examples of mobile source enforcement include detection of vehicles with non-California certified engines and/or emission control equipment and various illegal (non-exempted certified) aftermarket parts. The section conducts inspections at new and used car dealerships and commercial fleets to ensure that the vehicles being used or offered for sale are California-certified and equipped with the required emissions control systems.

a. Increased Enforcement of Off-Highway Vehicles (OHV)

Off highway vehicles (OHVs) such as off road motorcycles and all terrain vehicles sold in California, model year 1998 and later are required to be certified by ARB. In the beginning of 2002, ARB had twelve cases pending with manufacturers of non-certified (and incorrectly coded Vehicle Identification Numbers (VIN)) OHVs and motorcycles. These were the first cases of this type enforced by ARB.

b. Increased Enforcement of Small Off-Road Engines

The small off-road engine (SORE) category consists of off-road spark-ignition engines below 25 horsepower, including small utility equipment, lawn mowers and weed trimmers. Another area of increased enforcement for 2001 included joint Title 13 testing and quality assurance audits with Mobile Source Operations Division at the two production facilities. Prior to these cases, ARB had performed no factory audits, Title 13 testing or field retail enforcement of SORE.

Enforcement settlements for sale off road engines include:

- Echo Corporation for \$45,000 for avoiding required audit tests.
- Costco Wholesale Corporation for \$25,000 for the sale of 90 non-California certified mowers.
- Patmont Motor Works (PMW) and Komatsu Zenoah (KZ) for over \$100,000 for introducing and selling gas scooters with non-California certified engines. Both KZ and PMW filed objections during the United States Environmental Protection Agency (U.S. EPA) open comment period, protesting that California's SORE waiver (i.e., that allows California to apply its own standards to mobile sources) was being improperly applied to motorized scooter applications. Corrective action in these matters includes using certified engines on all future California products, and withdrawing their respective objections to the United States Environmental Protection Agency regarding California's SORE waiver.
- Riyobi Corporation for \$40,000 for selling non-certified products

c. Aftermarket Catalysts on On-Board Diagnostic II Vehicles

On Board Diagnostic Devices (OBD) are incorporated into the computer systems of new motor vehicles to monitor components and systems that affect emissions of air pollutants. If a problem is detected, the OBD system illuminates a warning light on the vehicle instrument panel. This warning light typically contains the phrase "Check Engine" or "Service Engine Soon." The system also stores important information about the detected malfunction so that a repair technician can accurately find and fix the problem. ED staff started the first of an ongoing series of statewide investigations of muffler shops that install illegal aftermarket catalysts. Currently, there are no legal aftermarket catalysts for OBDII applications and enforcement actions are being initiated against shops that install non-original equipment manufacturer catalysts.

d. Cases Involving Non-California Certified Vehicles

Staff continues to enforce California's new vehicle certification requirements. Bug Motors (non-certified VWs from Mexico) is currently being litigated by the Attorney General. Final judgement in the case was signed on December 12, 2001. Partial consent decrees for (defendants) Talebi and Fogel were signed in August 2001 and December 2001, respectively. The judgement includes \$1,052,500 in penalties and an injunction against any similar future practice.

e. Improper Emission Label

A number of California-certified vehicles produced by Ford Motor Company had their engines improperly labeled as certified for "USEPA only" (i.e., Federal certification). ARB reached a settlement with Ford Motor Company for \$150,000 and corrective action to include dealer advisories, improved labeling methods, and assembly line audits and reports.

f. Non-Certified Motorcycles

Investigations have been completed against eight manufacturers of non-California certified custom motorcycles. The Attorney General has obtained a civil settlement with one of the manufacturers, Ultra Incorporated, for \$400,000. None of the vehicles were removed from California, however, they were modified to meet California standards for evaporative controls. Ultra Incorporated has gone bankrupt.

g. Coordination with DMV

Both ED and OLA staff have worked very closely with the Department of Motor Vehicles (DMV) this year to ensure that off-highway vehicles receive the correct green or red registration sticker. Green and red stickers are issued by DMV for off-road motorcycles. OHVs with green stickers may operate all year. OHVs with red stickers are restricted for use to prescribed riding periods (based on high ozone conditions) that vary by area and air basin. The ED has also formed an ongoing work group with DMV to improve communication and cooperation on enforcement issues, and development has started on a regional training program of ARB requirements for DMV field managers.

h. Specialty Equipment Market Association Show

ED representatives staffed a booth at the 2001 Specialty Equipment Market Association or SEMA show in Las Vegas. This is the largest aftermarket parts show in the U.S. with over a half million visitors which makes it an ideal venue to educate manufacturers about our enforcement process. They answered hundreds of questions, provided outreach materials, and made it clear that they do conduct enforcement on non-compliant products.

i. Other Cases Against Dealerships and Fleets

ARB routinely follows up on Certificates of Non-Compliance and initiate enforcement actions for new non-California vehicles. Typically, they require the vehicle(s) to be removed from California in addition to payment of a penalty. The Mobile Source Enforcement staff settles the majority of these cases with typical penalties ranging from \$1,000 to \$10,000 per vehicle. From January through November 2001, they settled and closed 48 such cases with total penalties of \$142,000.

3. HEAVY DUTY DIESEL ENFORCEMENT

In 1998, the ARB added to its list of toxic air contaminants the particulate matter found in diesel exhaust. To assist in mitigating this problem, the Heavy-Duty Diesel Enforcement Section administers a statewide program of roadside inspections on heavy-duty trucks and buses to minimize the emissions discharged from these vehicles. These inspections include a scientific test to measure opacity of the emissions from trucks, and to enforce opacity limits of 55% for pre-1991 engines and 40% for 1991 and later engines. The owners of those vehicles that exceed the limits are issued a citation and are required to repair the engine to bring it into compliance. This section also supports the work of the Mobile Source Operations Division's fleet inspection program by performing enforcement audits when fleets do not comply with the provisions of that regulation.

a. Heavy Duty Vehicle Inspection Program North American Free Trade Agreement/Border Accomplishments

(1) Border Inspections

As required under SB 270 (1998 Peace) entitled the: "North American Free Trade Agreement (NAFTA) Conformity Act," the ARB maintained full-time inspectors at the California Highway Patrol Inspection Facilities located at Otay Mesa, and implemented full-time inspections at the Calexico Mexican-American border crossing to test heavy-duty diesel vehicles for excessive smoke emissions. The compliance rate at these border crossing has improved dramatically over the past ten years. The ARB has conducted periodic inspections since November of 1991 at the border crossings. The failure rate for trucks crossing the border in the early years was over 50%. In 2001, the failure rate was below 15% and continuing to drop annually.

(2) Outreach

The ED has produced public outreach materials including brochures, regulatory booklets, videos on the ARB's Heavy Duty Vehicle Inspection Program in both English and Spanish in an effort to educate truck drivers and owners in the border area about regulatory requirements.

(3) The Tijuana Project

This project is an agreement of cooperation between the State of Baja California, Mexico and the State of California. Its purpose is to carry out a pilot heavy-duty vehicle inspection program and light-duty vehicle "smog check" program for the City of Tijuana. A site has been selected at which the inspection facility will be constructed, possibly commencing in the spring of 2002. The training materials are now being translated into Spanish for use in this pilot program.

(4) Industry Days

These joint efforts between the Air Resources Board and the California Highway Patrol, held quarterly at each of the Calexico and Otay Mesa inspection sites, provide information on safety, registration, and exhaust emission reduction to independent and fleet owners and operators who cross the border.

(5) Tri-National Conference

ARB has been participating in a series of conference calls with representatives from the Northeast States for Coordinated Air Use Management and other representatives from Canada, the U.S. and Mexico to work on heavy-duty vehicle inspection program coordination issues that will arise with the implementation of the North American Free Trade Agreement. This conference was held in March 2002 in San Diego.

b. Heavy-Duty Diesel Roadside Inspection Program Accomplishments

(1) Inspections

Inspection frequency forms the backbone of the Heavy Duty Diesel Roadside Inspection Program. ARB aggressively pursues its mandate to prevent heavy trucks from being a disproportionate impact to California's clean air. Heavy-duty diesel trucks and buses comprise only 2% of the on-road vehicle fleet in California, while disproportionately contributing 30% of the on-road fleet's contribution of smog-forming oxides of nitrogen and 65% of its particulate matter.

- In 2000, the Heavy-Duty Vehicle Inspection program performed 17,372 inspections during 2000, which resulted in 906 violations (citations and Notices of Violation) that resulted in a compliance rate of 92.8%.
- In 2001, through November 30, 2001, there were 16,486 inspections performed and 1,040 violations noted (Citations and Notices of Violation). Penalties in the amount of \$237,600 were assessed, and \$154,460 was collected. The compliance rate has remained at 93% for 2001.

(2) Delinquent Citations

Staff instituted a collections program to process delinquent citations from both the current roadside emission inspection program (HDVIP II), and the program that was in effect from 1991 through 1993 (HDVIP I). Collections had previously been handled in the ARB's legal office. More importantly, these violators realized that their violations did not go unnoticed and were pursued until cleared. This sends a strong message to the regulated community that violations must be cleared or the violators will be pursued and assessed higher penalties until they are cleared

- In 2000, 288 delinquent citations issued under HDVIP I, had been cleared. The total penalty amount of \$92,993. 89 from the current program were cleared with a total penalty amount of \$ 44,582.
- During 2001 to date, staff cleared 228 HDVIP I and 104 HDVIP II delinquent citations resulting in collections of \$42,000 and \$21,000, respectively or \$63,000 in total.

(3) Guidance Documents for Heavy Duty Program

During 1999, ARB contributed to the U.S. EPA's publication of guidance relating to the administration of heavy-duty vehicle inspection programs throughout the United States. The EPA document was aligned with the ARB's program.

(4) Opacity Meter Certification

Staff participated in a working group with the Society of Automotive Engineers (SAE) to develop a test procedure to be used to certify the smoke opacity meters used in the heavy-duty vehicle inspection program with SAE's specifications (SAE J1667).

(5) Internet Related Outreach

Staff improved program outreach and public information accessibility by developing a Heavy-Duty Vehicle Inspection Program web site. Included on this site are all of the program's informational brochures, resources for obtaining a required inspection, the regulations governing the program and other pertinent documents. Staff also obtained a license from the SAE so that their testing procedure, SAE J1667, could be obtained from this web site.

4. FUELS AND CONSUMER PRODUCTS ENFORCEMENT

The Field Enforcement section enforces vehicle fuels laws and consumer products laws. The ARB's fuels effort is made up of several components which broadly fall into two categories: (1) adopting and enforcing fuel specifications, and (2) controlling emissions from marketing and distributing fuels in California. The investigators of the Consumer Products program purchase samples of regulated consumer products such as hairspray and air fresheners from outlets all over California and inspect

product containers for compliance with content restrictions (on air pollutants such as volatile organic components), registration and dating requirements.

a. Enforcement Accomplishment for 1999-2001

(1) Fiscal Year 1999-2000

- Conducted 15 weeks of fuels (gasoline and diesel) inspections at all points of the fuel distribution network.
- Initiated a contract with the Internal Revenue Service, Federal Highway Administration, and the State Board of Equalization to participate in a project to sample diesel fuel in the tanks of on-road trucks in order to determine whether the vehicles were being fueled with non-taxed (red-dyed) diesel.
- As part of the contract noted above, ARB inspectors took diesel fuel samples at service stations and refineries. These samples were analyzed at ARB's fuel laboratory and "fingerprinted" (i.e., baseline characteristics were established) in order to determine if future fuel samples have been adulterated with illegal substances (e.g., jet fuel, kerosene, or waste material known generically as "transmix").
- Under the ARB's Consumer Products Enforcement Program, staff conducted inspections and took samples at 148 locations that sell, distribute or manufacture consumer products subject to air quality regulations. Samples were analyzed for compliance with applicable regulations. During FY 1999-2000, 313 samples were analyzed, 13 reports of violation were issued and 9 new enforcement cases were referred to ARB's legal office for litigation or settlement. Three cases were settled: American Auto Accessories (air freshener) for \$500, Soft Sheen (hair care products) for \$15,500, and MEDO Manufacturing (air freshener) for \$8,000.

(2) Fiscal Year 2000-2001

- During FY 2000-2001 ARB's Fuel and Consumer Products Division accomplished the following:
- Tosco Switches from MTBE (methyl tertiary butyl ether) to Ethanol Oxygenate -- Worked with Tosco to ensure that their change from MTBE to ethanol oxygenate blending was done in an efficient and compliant manner.
- Fuel Distribution Inspections -- Conducted 20 inspection-weeks at all points of the fuel distribution network to ensure compliance with the fuels regulations.
- Consumer Products Inspections -- Conducted 18 consumer products inspection-weeks to ensure compliance with all of the consumer products regulations.

- Cargo Tank Enforcement -- Implemented an enhanced cargo tank enforcement program, particularly in the area of cargo tank testers, and more closely coordinated with the staff who certify cargo tanks to ensure better compliance rates.
- New Mobile Fuels Laboratory -- Successfully completed a contract to build and equip a new mobile fuels laboratory.
- Compressed Natural Gas (CNG) and Liquefied Petroleum Gas (LPG) Fuels Enforcement -- Ordered new testing equipment to enable the testing and enforcement of CNG and LPG alternate fuels regulations.
- Reformulated Gasoline – Refinery Electronic Reporting Program -- Since the California Reformulated Gasoline (CaRFG) regulation went into effect in March 1996, California gasoline producers have complied with the reporting part of the regulation by submitting fax transmissions. This process requires gasoline producers as well as the ARB to transcribe data manually, which is time consuming and has, on occasion, resulted in data entry errors.

Now, through the use of e-mail, this data can now be sent to the ARB electronically for inclusion into the ARB's tracking system. In addition, with the implementation of the Phase 3 and CARBOB (California Reformulated Gasoline Blendstock for Oxygenate Blending) RFG (reformulated gasoline) models, ARB opted to standardize the notification form so that the data would be listed in a standardized format on the notification page.

During the last quarter of 2001, the ARB fuels staff worked with gasoline refiners and producers to standardize the notification reports. Since these reports are attached to the refiner's "Predictive Model" excel files, the data is transferred electronically to the report and data forms. Through the use of the e-mail, the data is then transmitted to the ARB electronically for downloading into the ARB's tracking system.

5. STATIONARY SOURCE ENFORCEMENT ACCOMPLISHMENTS

The control of stationary sources of air pollution, such as fixed equipment and industrial sites, falls under the jurisdiction of California's 35 air pollution control districts. Stationary source enforcement activities for FY 2000-2001 are listed below.

Variance Program Audits

Conducted Variance Program Audits in Northern Sierra and Shasta.

Variance Hearings

Attended and evaluated Variance Hearings in Northern Sierra, San Joaquin, San Diego, and Bay Area.

Variance Petitions

Reviewed 718 variance petitions and inputted data from these variances into ARB database for monthly reporting.

Complaint Hotline

Received 389 calls on the Complaint Hotline and referred 155 to the districts. Other calls were referred as follows: 100 calls to other Division within ARB, 95 were referred to other agencies, and the remaining 39 calls were responded to by Enforcement Division staff.

Other Audits

Conducted mini audits in Lassen, Siskiyou and Feather River Air Pollution Control Districts (APCDs) to evaluate their Aerometric Information Retrieval System (AIRS) Compliance and High Priority Violator program, Continuous Emissions Monitoring (CEM) Program, minor source violation program, and their penalty assessment policy.

District Rule Review

Received 325 local air district rules to review. Reviewed 300 and submitted written comments on 80.

Monthly AIRS Reports

Generated 12 monthly AIRS reports reflecting updates and changes to High Priority Violator information for 26 of the 35 air pollution control districts. Reports submitted to the districts and U.S. EPA.

Quarterly AIRS Reports

Generated 4 quarterly AIRS reports reflecting updates and changes to facility compliance information for 26 of the 35 air pollution control districts. Reports submitted to the districts and U.S. EPA.

Asbestos NESHAP Program

Conducted 22 asbestos NESHAP (National Emissions Standards for Hazardous Air Pollutants) inspections; responded to 10 asbestos complaints; issued 7 Notice of Violations (NOVs); settled 4 NOVs totaling approximately \$40,000 through the ARB's Legal Office; processed 276 asbestos NESHAP demolition/renovation notifications; submitted 4 quarterly National Asbestos Registry reports to the U.S. EPA; responded to over 400 phone calls and emails from the public, government agencies

and others; conducted two asbestos NESHAP task force meetings; and referred one asbestos NESHAP case to a District Attorney's office.

6. SPECIAL ENVIRONMENTAL INVESTIGATIONS (CROSS ENVIRONMENTAL MEDIA) AND ENFORCEMENT

Participation in Numerous Multi-Media Investigations

Working under a Memorandum of Understanding (MOU) between ARB and Cal/EPA, the SEI unit has participated in a number of multi-media investigations (i.e., cases where the nature of violations crosses program/department boundaries, such as air/toxic substances/water/waste, etc.) As the cases are still on going no further information is available at this time.

ARCO Underground Storage Tanks

At the request of Cal/EPA, SEI was assigned to this case. This was a long-term investigation that was referred to the Attorney General's Office.

Asbestos Cases

ARB assists smaller air quality districts in investigating and pursuing cases involving illegal asbestos removal ("rip and tear"). A number of cases were closed during 2001. The cases were referred to local district attorneys. Settlements resulted in misdemeanor convictions or civil penalties.

Incinerator Case

The Citizens for a Better Environment community group brought this case, involving a medical waste incineration facility, IES, in an Environmental Justice (EJ) area, to the attention of the ARB and the Bay Area Air Quality Management District (District). While multiple issues were involved (e.g., odor nuisance, potential permit violations), the ARB was called upon to support the District by setting up surveillance equipment to determine if burning activities exceeded smoke opacity standards. The facility is now out of business.

Focused Environmental Inspections

The ED organizes and participates in a series of "focused environmental inspections" in environmental justice communities. These multi-media inspections, rely on the involvement of state, local, and federal agencies (e.g., CHP, local law enforcement, local hazardous materials teams, Internal Revenue Service, etc.). Inspectors examine heavy-duty diesel vehicles and other light- and medium vehicles for violations of smoke opacity levels, emission control equipment tampering, safety equipment, illegal transport of hazardous materials, improper use of tax-exempt diesel fuel, etc. During 2001, the ARB participated in 27 days of these inspections.

Sites included communities of Oakland (Fruitvale and Port areas), Wilmington/Port of Los Angeles-Long Beach, Pacoima, Boyle Heights, Barrio Logan (San Diego), and Huntington Park/Vernon.

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 used as fill material for 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.

C. QUANTITATIVE SUMMARY OF VIOLATION AND PENALTY STATISTICS

1. Enforcement Data for ARB

Enforcement Accomplishments for 1996-1997

<u>Division</u>	<u>Case information</u>			<u>Penalties</u>
	<u>Pending</u>	<u>Settled</u>	<u>Referred</u>	
Mobile Sources	31	14	43	\$1,334,692
Fuels	32	9	42	\$ 147,500
Consumer Product	32	0	32	\$ -0-
Cargo Tanks	4	23	27	\$ 12,500
Other	4	1	5	\$ 1,035,000

Totals	103	47	149	\$ 2,529,692

Enforcement Accomplishments for 1999-2000

<u>Division</u>	<u>Case information</u>			<u>Penalties</u>
	<u>Pending</u>	<u>Settled</u>	<u>Referred⁶</u>	
Mobile Sources	170	70	240	\$ 511,150
Fuels	44	11	55	\$1,655,550
Consumer Product	20	8	28	\$ 325,550
Cargo Tanks	10	32	42	\$ 16,000
Other	42	7	49	\$ 267,600

Totals	286	128	414	\$2,775,850

⁶ "Referred" means that the case has progressed beyond investigation and was referred to legal counsel, either in house or outside (District Attorney or Attorney General).

Enforcement Accomplishments for 2001

Although enforcement accomplishment statistical data has yet to be compiled for 2001, two categories with preliminary information are included below.

<u>Division</u>	<u>Case information</u>			<u>Penalties</u>
	<u>Pending</u>	<u>Settled</u>	<u>Referred</u>	
Mobile Sources	29	59	79	\$3,349,000
Heavy Duty Diesel	167	520	692	\$ 219,600

Totals	196	579	771	\$3,568,600

2. Enforcement Data for California’s 35 Air Quality Management Districts

The 35 Air Quality Management Districts in California are the local component to California’s Air Resources Board. Local districts have jurisdiction over stationary sources of air pollution. These districts may take administrative enforcement action, civil enforcement through use of in house counsel or refer cases to local district attorneys.

a. Enforcement Data for 1999-2000

Civil & Criminal Prosecutions	182
Fines Assessed	\$432,527
NOVs (Notice of Violation) Issued.....	8964
NTCs (Notice to Comply) Issued	9072
Penalties Assessed:	\$14,382,804

b. Enforcement Data for 2001

In the time available to produce this report, ARB was unable to collect local district information such as that shown above for 1999-2000. However the following information from two of the larger air districts is available:

(1) South Coast Air Quality Management District

Notices of Violation -- 2,775 were issued; settlements totaled \$21,643,750. Other penalties were valued at \$18,957,615. (This includes the monetary value of settlement expenditures, e.g., new air pollution control equipment, operator training, etc.) There were 5,935 Notices to Comply issued.

Note: NOVs issued for FY 00-01 do not necessarily represent the NOVs settled during this time period. Penalties settled represent civil, mutual settlement

agreements (MSA), and miscellaneous. Value of other penalties settled represents Supplemental Environmental Projects.

(2) San Joaquin Valley Unified Air Pollution Control District

Notices of Violation -- 1,593 were issued; settlements were for \$1,260,610. Other penalties were valued at \$37,190; this includes the monetary value of settlement expenditures, e.g., new air pollution control equipment, and operator training, etc. 183 Notices to Comply were issued.

D. ARB ENFORCEMENT GOALS FOR 2002:

- ARB will increase inspections at points of distribution and retail outlets.
- Increase enforcement audits of heavy-duty diesel vehicle fleets and refer cases for litigation or settlement where violations are found.
- Increase the number of multi-media inspection events in mixed-use (industrial/residential) neighborhoods. (There were 27 such events in 2001 – our goal is to conduct 100 events in 2002.)
- Continued improvement of environmental quality at the California-Mexican border through enhanced enforcement and compliance assistance. Specific goals include increased heavy-duty diesel vehicle inspections due to increased traffic under the North America Free Trade Agreement, and participation in the Tri-National Heavy-Duty Vehicle Inspection and Maintenance Working Group and the group's first conference in March 2002.
- Continued aggressive enforcement of ARB's Off-Highway Vehicle regulations.
- Implementation of a program to enforce ARB's marine pleasure craft regulations.
- Work with the California Highway Patrol to complete development of process and commence implementation of program to impound vehicles of repeat offenders of the Heavy-Duty Vehicle Inspection Program, as provided in statute under the California Vehicle Code section 27159.
- Continued enforcement of 49-state vehicle program
- Continued work with the California Department of Motor Vehicles toward improving compliance with ARB's regulations (49-state vehicles, off-road motorcycles, etc.).

IV

STATE WATER RESOURCES CONTROL BOARD (SWRCB)

A. SWRCB ENFORCEMENT RESPONSIBILITIES OVERVIEW

In concert with the Regional Water Quality Control Boards (RWQCB), the SWRCB is charged with the protection of the waters of the state. To that end, the SWRCB enforces laws and regulations and provides guidance to the local boards to ensure that the waters of the state are protected in a consistent and coordinated manner.

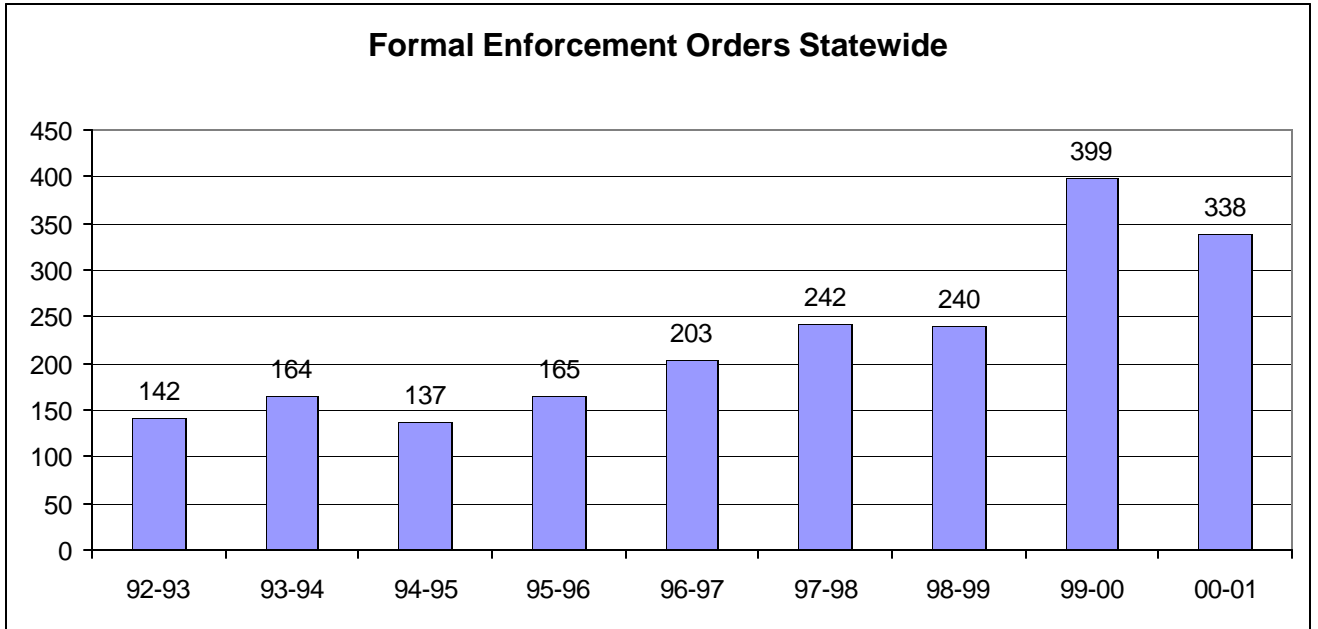
B. SWRCB'S ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001

1. ENFORCEMENT ACTIVITIES GENERALLY

As a result of increased regulatory staffing and a continuing focus on compliance with regulatory programs, the enforcement efforts at the State and Regional Boards have continued to increase.

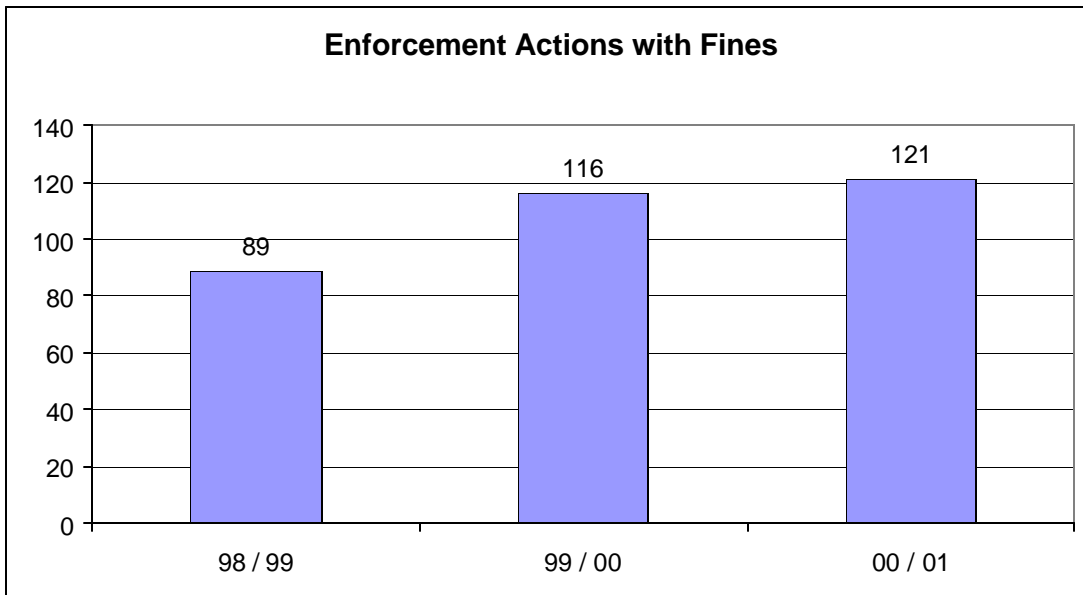
- The total number of formal enforcement actions increased by 46 percent from FY 98-99 to FY 00-01 (see Chart No. 1).
- The number of enforcement actions with fines increased by 35 percent from FY 98-99 to FY 00-01 (see Chart No. 2).
- The amount of fines assessed increased from \$5.4 million to \$11.9 million, a 120 percent increase from FY 98-99 to FY 00-01 (see Chart No. 3).
- NPDES violations have decreased by 86 percent from January 2000 to September 2001 (see Chart No. 4).

Chart No. 1



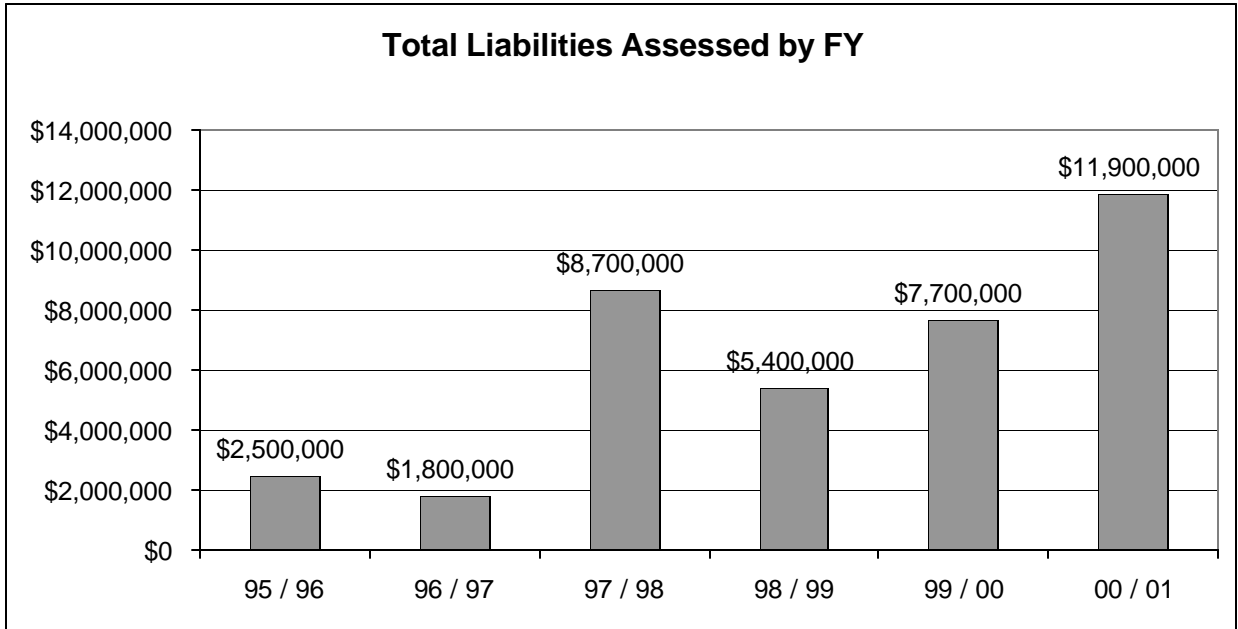
Formal Enforcement Orders have been increasing. Additional resources were added in 97-98. Legislation requiring Mandatory Minimum Penalties became effective in January 2000 and account for a large portion of the increase in 00-01. Formal Enforcement Orders includes: Cease and Desist Orders, Cleanup and Abatement Orders, Time Schedule Orders, Administrative Civil Liabilities, Mandatory Minimum Penalties, and referrals to the Attorney General and others.

Chart No. 2



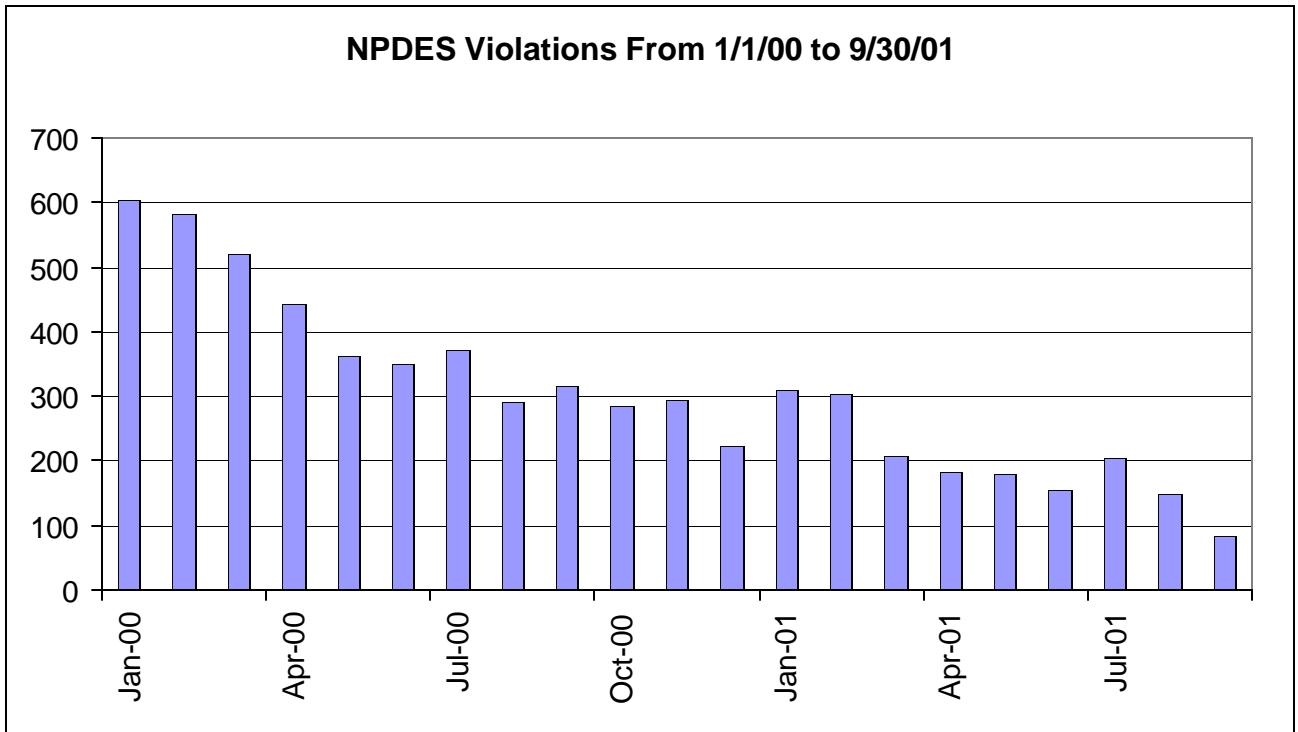
Enforcement actions with fines include Administrative Civil Liabilities and Mandatory Minimum Penalties.

Chart No. 3



These totals include payments to the Cleanup and Abatement Account and Supplemental Environmental Projects.

Chart No. 4



NPDES effluent violations have been decreasing. This decrease corresponds to the implementation of Mandatory Minimum Penalties.

2. CRIMINAL CASES

SWRCB and Regional Board staff assisted the U.S. EPA Criminal Investigation Division in several federal criminal water pollution investigations, some of which led to convictions, including:

- 1) U.S. v. Pearley (2002, Northern District);
- 2) U.S. v. Ishida and Masami Cattle Ranch (2002, Central District);
- 3) U.S. v. Mark Stoffer (2001, Southern District) for falsifying test reports at the Camp Pendleton Waste Water Treatment Plant.

3. SIGNIFICANT RWQCB CASES

The following are significant cases from the Regional Water Quality Control Boards:

- The San Francisco Bay RWQCB adopted a Cease and Desist Order (CDO) for the San Francisco Airport sewage plant in November 2001. The CDO has a time schedule for upgrading the plant. The airport has since budgeted approximately \$20 million for plant upgrades.
- The San Francisco Bay RWQCB issued a \$182,000 Administrative Civil Liability (ACL) to the Dow Chemical Plant in Pittsburg in October 2000 for failure to make progress on a groundwater cleanup. The groundwater discharges to a river, upstream of a drinking water intake. Dow's cleanup program is now back on track.
- The San Francisco Bay RWQCB issued two ACLs to Sonoma Valley County Sanitation District in July 2001 for violating NPDES permit requirements. The ACLs were \$87,900 and \$160,500. Sonoma is now working on plant improvements to prevent future violations.
- The San Francisco Bay RWQCB issued an ACL and a Mandatory Minimum Penalty (MMP) to the City of Pacifica in September 2001 for NPDES violations. The ACL was for \$76,889 and the MMP was for \$132,000. Pacifica is now working on plant improvements to prevent future violations.
- The Central Coast RWQCB issued a \$30,000 ACL to Vintage Petroleum Company in 1999 for failing to file a report of waste discharge for the disposal of petroleum degraded soil to land.
- The Central Coast RWQCB issued a cleanup and abatement order to Texaco for the removal of petroleum degraded soil.

- The Los Angeles RWQCB issued an ACL to the City of San Buena Ventura in March 2001 for \$129,858, for discharging raw sewage and secondary treated effluent from the Ventura Water Renovation Facility and the plant's sewage collection system into Ventura Harbor and its tributaries on more than eight days. Additionally, the City is alleged to have discharged approximately 495,000,000 gallons of final treated wastewater exceeding effluent limitations for coliform and turbidity from the plant into the Santa Clara River Estuary on sixty-six days.
- In October 2000, the Los Angeles RWQCB issued an ACL complaint in the amount of \$169,069, against Wilshire West Partners for discharges of oily wastewater to Ballona Creek and failure to submit discharge monitoring and technical reports. The discharges caused at least four waterfowl deaths. Additional impacts to wildlife and receiving waters have not been quantified. Wilshire West Partners paid the penalty in full.
- In August 2000, the Los Angeles RWQCB issued an ACL in the amount of \$46,530 to the Malibu Bay Club, Inc. for discharges of primary treated sewage to the ground surface at the Malibu Bay Club condominium complex.
- The Los Angeles RWQCB issued an ACL to the County Sanitation Districts of Los Angeles County, for the Joint Water Pollution Control Plant, in May 2001, for \$89,690, for discharging 30,000 gallons of raw sewage and 60,000 gallons of partially treated wastewater disposal between May 1999 and March 2000 into the Pacific Ocean at Whites Point.
- The Los Angeles RWQCB and the USEPA filed suit against the City of Los Angeles on January 8, 2001, for repeated sanitary sewer overflows from the City's wastewater collection system. Many of these sewage overflows are violations of the Clean Water Act. Board staff attended the Status Conference on January 29, 2001, in which the EPA and Regional Board lawsuit was combined with the Santa Monica Baykeeper's lawsuit, filed in 1998, against the City of Los Angeles similar violations of the Clean Water Act. At the settlement hearing, the judge ordered the parties to conduct a series of settlement meetings. Regional Board staff continue to participate in the settlement meetings. The lawsuit addresses both dry weather and wet weather overflows, including capacity, maintenance, infiltration, grease control, and odor issues.

- The Los Angeles RWQCB issued an ACL to the City of Thousand Oaks for \$76,990 in September 2001 for discharging 30,000 gallons of raw sewage into Arroyo Conejo Creek.
- The Los Angeles RWQCB issued an ACL to Metal Recycling 22, Inc. in October 2001 for \$33,610, for violating the State's General Permit for Storm Water Discharges Associated with Industrial Activities by not retaining a Storm Water Pollution Prevention Plan on site, not implementing and maintaining non-structural best management practices, failing to conduct, document and record on a quarterly basis all "Non-Stormwater Visual Observations," failing to analyze for all parameters relevant to the facility's standard industrial classification, and failure to collect at least two storm water samples during the 2000 wet season.
- The Los Angeles RWQCB issued an ACL to Camp Glenn Rocky in January 2002 for \$52,000, for violating California Water Code sections 13376 and 13264. The Camp discharged 9,000 gallons of raw sewage January 15–January 24, 2000, January 29–February 11, 2000, and February 24–March 8, 2000, into Sycamore Canyon Creek.
- The Los Angeles RWQCB has issued 30 stormwater ACLs for non-filers and non-submittal of Annual reports wherein penalties totaling \$182,950 were assessed.
- The Los Angeles RWQCB has issued 39 Mandatory Minimum penalties for violations of NPDES permits. Penalties totaling \$414,000 were assessed.
- The Central Valley RWQCB Executive Order issued an ACL Complaint to Harter Packing Company in December 2000 for violation of their waste discharge requirements. The violation resulted in strong, objectionable odors outside the boundaries of the waste discharge areas and exceeded the appropriate hydraulic application rates resulting in standing water in excess of 24 hours during much of the processing season. The RWQCB and the local Air Quality Management District received numerous odor complaints. The ACL was originally issued for \$50,000 but was later reduced to \$30,000 based on mitigation measures and associated actions taken by the Discharger to address the odor conditions during the following processing season. The discharger has also been issued a Cleanup and Abatement Order (CAO) directing them to address their problems.

- In July 2000, the Central Valley RWQCB issued a Cleanup and Abatement Order and an ACL for \$700,000 to the City of Folsom for a 700,000 gallon spill of sewage from their collection system into a tributary to the American River. In investigating the spill, The RWQCB found that Folsom did not properly report the spill, and that Folsom had engineering reports going back several years indicating their system was undersized. Since the time these reports were issued, Folsom continued to grow. At the time of the spill, they were working on needed upgrades that would have avoided this spill, but these upgrades had been delayed.
- The Central Valley RWQCB settled a case against Masami Cattle ranch near Red Bluff. The ranch is accused of dumping dead cattle and manure into creeks. The one million dollar settlement is the largest ever assessed against an animal feeding operation in California. The RWQCB also assisted and cooperated with federal criminal investigations and prosecutions which resulted in cattle rancher Masami Ishida's placement on one year's probation, half of which is to be spent in home confinement. Manuel Madera Noriega, a foreman at the ranch, was fined \$3,000 and placed on probation for two years.
- In 2001, the Lahontan RWQCB issued a series of cleanup and abatement orders (CAOs) to Molycorp, a rare-earth metals mining operation in San Bernardino County. The orders require cleanup of groundwater contaminated by radioactive materials discharged from leaking waste ponds.
- In 2001, the Lahontan RWQCB referred to the Attorney General past violations of Waste Discharge Requirements by the Squaw Valley Ski Resort. The RWQCB also adopted a Cleanup and Abatement Order on the entire ski area, primarily to abate erosion problems and storm water runoff discharges adversely affecting Squaw Creek.
- The Lahontan RWQCB issued a cleanup and abatement order in 2000 to IMC Chemicals. IMC operates several facilities that process minerals contained in groundwater beneath Searles Lake (a dry lake) in San Bernardino County. The order requires IMC to abate discharges of petroleum products to Searles Lake that were adversely affecting wildlife habitat beneficial uses.
- The Santa Anna RWQCB adopted a Cease and Desist Order in 2000, issued to The Irvine Company, the California Department of Parks and Recreation, and the California Department of Transportation (CalTrans) requiring them to discontinue discharges (in accordance with a time schedule) to the Irvine Coast Area of Special Biological Significance, enforcing the Ocean Plan prohibition of such discharges.

The order was controversial and had high public visibility due to controversy regarding ongoing developments in the Crystal Cove area. CalTrans appealed the order to the State Board, who upheld the RWQCB action but extended the time schedule by a year.

- The Santa Anna RWQCB also focused on construction storm water violations, issuing several ACLs, largely as a result of an increase in staffing in that program.
- The San Diego RWQCB issued two significant ACLs against the City of San Diego (\$3.4 million and \$1.6 million) for sewage spills.
- The San Diego RWQCB issued an ACL for sewage spills to the City of Oceanside for \$346,000 in October 2001.
- The San Diego RWQCB has increased enforcement activities to collect delinquent fees, resulting in a significant increase (approximately \$120,000) in fees collected.
- The San Diego RWQCB issued several significant (more than \$100,000) ACLs for violations of Storm water permits, has forced shipyards around San Diego Bay to cleanup polluted runoff and worked vigorously to address Camp Pendleton's chronic sewage overflows and substandard waste-water treatment system.

4. SIGNIFICANT SWRCB ENFORCEMENT ACTIVITIES

The SWRCB is directly responsible for enforcement for several important statewide programs.

a. Division Of Water Rights

The SWRCB Division of Water Rights conducts a proactive compliance and enforcement program inspecting permitted and licensed water right projects for compliance with terms and conditions and investigating potential unauthorized diversions within targeted high-resource value watersheds throughout the State. Since 1999, the Division inspected over 330 permits and licenses with over 90 percent of the inspections finding some violation that required voluntary corrective action by the owner. During this period, the Division initiated formal enforcement by revoking nineteen licenses and by imposing administrative civil liability (ACL) penalties against fifteen unauthorized diverters.

b. Office of Operator Certification

The SWRCB Office of Operator Certification investigates complaints related to the activities and qualifications of Waste Water Treatment Plant operators. Since January 1999, the office has opened 51 new cases of which 22 cases have been resolved. Two significant cases are described below:

- Ms. Gail McPherson, former Wastewater Systems Manager at the City of Riverside, and Mr. Vincent Bibbee, both certified wastewater treatment plant operators, provided false and misleading experience on applications Mr. Bibbee submitted for certification. McPherson pled no contest to a misdemeanor charge of aiding the commission of a misdemeanor and agreed to make restitution of \$40,000 to the State Water Resources Control Board (SWRCB) for investigative costs. Her Grade V Operator Certificate was placed on probation for two years. Bibbee pled no contest to misdemeanor grand theft and aiding the commission of a misdemeanor. He was also liable with McPherson for \$40,000 restitution to the SWRCB. His Grade II Operator Certificate was revoked, and a Grade I Certificate was issued. The criminal charges against both were dropped, in accordance with the plea agreement, because restitution was fulfilled within six months of the plea.
- The Chief Plant Operator (CPO) of two wastewater treatment plants on Edwards Air Force Base, an employee of Eckhoff, Watson & Preator (EWP), directed uncertified workers to act as operators. The Office of Operator Certification downgraded the CPO's certificate for a period of one year. A plant supervisor, who allowed uncertified workers to act as operators, had his certificate placed on probation for two years. ACL Complaint No. 01-01 was issued to EWP by the Executive Director on May 11, 2001; EWP waived its right to a hearing and remitted payment of \$8,200. A Notice of Violation was sent to the U.S. Air Force for allowing uncertified operators at its treatment plants.

c. Underground Storage Tank (UST) Program

In 2001, the SWRCB Underground Storage Tank (UST) Program created a five-person enforcement unit to address violations of program requirements including Tank Tester Certification requirements and UST loan fraud. Investigations are ongoing but not public as of the date of this report.

5. ENFORCEMENT RELATED BUDGET AUGMENTATION

a. Training for Inspectors and Compliance Staff

The Governor's FY 2001-2002 budget provided \$1.4 million to undertake a vigorous training program for the SWRCB and RWQCB inspectors and compliance staff. This training is needed to improve the effectiveness of personnel. The training will also address the large number of new staff due to recent hiring and staff turnover that need technical training in order to perform their job function effectively. These funds are the initial investment in the SWRCB's Water Quality Academy that will be the ultimate vehicle for training our technical staff and the public.

The training program will include some courses specifically related to compliance and enforcement activities as well as technical topics that allow staff to better perform their job functions. The following list is a sampling of the training topics being developed:

- Applied technical training to meet Total Maximum Daily Load (TMDL) requirements
- Basic inspection procedures
- Industrial storm water inspections
- Construction storm water inspections
- Legal training on enforcement actions and application of the Water Code sections on enforcement
- Immediate spill response protocol for staff
- Emergency spill response for senior and supervisory staff
- Review of self monitoring reports and other technical reports
- Sampling procedures
- Environmental negotiations training, and
- Pollution prevention.

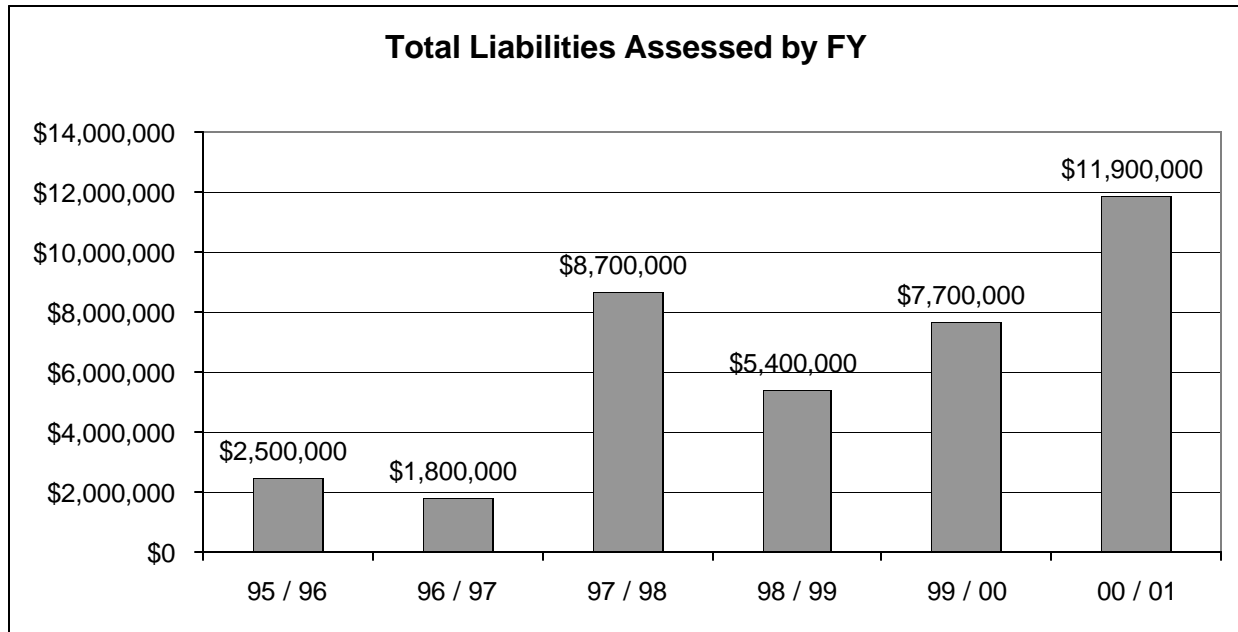
C. SWRCB QUANTITATIVE ENFORCEMENT INFORMATION FOR 1999-2001

The table below breaks out the total amount of enforcement actions taken by the type of action and the year.

Formal Enforcement Actions	1999	2000	2001	Total
Notice to Comply	94	259	362	715
13267 Letter (Requiring Submittal of Information)	662	977	703	2,342
Time Schedule Order	6	28	10	44
Cleanup and Abatement Order	181	140	91	412
Cease and Desist Order	73	40	36	149
Mandatory Minimum Penalty	0	49	79	128
Administrative Civil Liability	129	134	160	423
Referral to Attorney General	8	9	4	21
Referral to District Attorney	3	3	0	6
Referral to Other Agency	1	6	0	7
Referral to Task Force	0	2	0	2
Settlement Agreement	4	1	0	5
Stipulated Penalty	0	1	0	1
Third Party Agreement	4	0	0	4
Waste Discharge Requirements	9	4	5	18
Formal Enforcement Actions Total	1,174	1,653	1,450	4,277
Informal Enforcement Actions				
Verbal	273	825	579	1,677
Staff Enforcement Letter	492	1,623	745	2,860
Notice of Violation	2,809	1,633	1,463	5,905
Informal Enforcement Actions Total	3,574	4,081	2,787	10,442
Total Enforcement Actions	4,748	5,734	4,237	14,719

The table below shows the total liabilities that have been paid to the Cleanup and Abatement Account and spent on Supplemental Environmental Projects.

	Money paid to the Cleanup and Abatement Account	Money spent on Supplemental Environmental Projects	Total
95 / 96	\$2,500,000	Unavailable	\$2,500,000
96 / 97	\$1,800,000	Unavailable	\$1,800,000
97 / 98	\$6,700,000	\$2,000,000	\$8,700,000
98 / 99	\$2,200,000	\$3,200,000	\$5,400,000
99 / 00	\$6,400,000	\$1,300,000	\$7,700,000
00 / 01	\$9,300,000	\$2,600,000	\$11,900,000



Total Liabilities assessed by the State and Regional Water Quality Control Boards. These totals include both payments to the Cleanup and Abatement Account and Supplemental Environmental Projects.

D. STATE BOARD'S STRATEGIC PLAN

The SWRCB adopted its Strategic Plan on November 15, 2001. One of the key Strategic Projects contained in this plan is the Compliance Assurance and Enforcement Initiative Project. This Initiative will lay out a plan to achieve measurable and continuing increases in the rate of compliance with state and federal laws.

A key aspect of this will be better data management. Regulators, policy makers, and the public must have improved access to information about violations and enforcement. Better tools must be developed to improve the consistency and cost-effectiveness of compliance determinations and action plans. And finally, representative measures of compliance rates should be developed and presented to the public in periodic Compliance Report Cards prepared by the Water Boards.

1. IMPROVED DATA SYSTEMS

Improved data management was identified by the SWRCB's Strategic Plan as being fundamental to its future success. Currently the SWRCB is undertaking its SWIM II database project. This project includes several enhancements to the SWIM database that will improve the SWRCB's compliance assurance and enforcement programs. The SWIM II project will continue through the year 2004 with a gradual introduction of features. Several key features of the project in regards to compliance and enforcement are:

- Development of electronic self monitoring reporting (eSMR) whereby dischargers submit data electronically and it is automatically screened for compliance.
- Improved tracking of inspections and the ability to target inspection resources to those areas where they will be most effective.
- Better access to permit data by compliance staff to increase efficiencies.
- Improved tracking of enforcement actions to monitor their results.
- Standardized and automated enforcement order tools to increase efficiencies and improve consistency.

2. REVISION OF THE STATE BOARD ENFORCEMENT POLICY

The SWRCB adopted the revised Water Quality Enforcement Policy in February 2002. In Spring 2002, the revised policy will be submitted to the Office of Administrative Law for final approval. The previous enforcement policy was established by SWRCB Resolution 96-030 "Water Quality Enforcement Policy" and was adopted in order to ensure a consistent approach to water quality enforcement actions throughout the State. The revised policy addresses recommendations of the SWRCB's Enforcement Order Review Panel, reflects recent statutory changes, and promotes statewide consistency in the enforcement of water quality laws by the State and Regional Water Quality Control Boards.

The goals of the revised policy include:

1. Integrating policy/guidance with the SWRCB Information Management Strategy (IMS) to better communicate enforcement needs and effectiveness and to improve efficiency.
2. Ensuring more efficient use of standardized permit and enforcement order language.
3. Improving and standardizing violation and enforcement reporting.
4. Establishing procedures for identifying enforcement priorities.
5. Establishing procedures for response to fraudulent reporting or knowingly withholding information.
6. Establishing the process for implementation of specific provisions of SB 709 (1999), SB 2165 (2000), and AB 1664 (2001) that require the Boards to assess mandatory minimum penalties for certain violations.
7. Establishing more consistent procedures for staff to use when developing recommendations for ACL amounts. The

recommended liabilities would include the recovery of economic benefit and the recovery of staff costs.

8. Establishing criteria for the approval and tracking of supplemental environmental projects (SEPs) and compliance projects.
9. Defining the public's role in this ACL process.

V

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

The California Integrated Waste Management Board (CIWMB) ensures that non hazardous solid wastes and waste-derived materials are stored, processed and/or disposed of in a safe and environmentally sound manner. Their mission is to reduce the generation and improve the management of solid waste in California to conserve resources, develop sustainable recycling markets, and protect public health and safety, and the environment.

A. ENFORCEMENT RESPONSIBILITIES OVERVIEW

This CIWMB enforcement mandate is accomplished through the development and enforcement of environmental and health regulations at solid waste facilities, including landfills, transfer stations, composting operations, material recovery and transformation facilities. Oversight is accomplished in partnership with Local Enforcement Agencies (LEAs), who are designated by the governing body of a county or city and, upon certification by the Board, are empowered to implement delegated Board programs and locally designated activities. The Board acts as the enforcement agency where no Local Enforcement Agency is designated, or where the LEA is not fulfilling its obligations.

The enforcement process encompasses the following activities:

1. PERMITTING

LEAs prepare and issue solid waste facility permits, after Board concurrence. Board review ensures that applicable laws, regulations and procedures have been followed, that financial assurance is available for operating liability and for closure/post closure maintenance, and that operating conditions are delineated. The Board also reviews permits for consistency with local plans and California Environmental Quality Act (CEQA) documents. Permits are required to be revised upon changes in design or operation that affect the permit conditions and are reviewed every five years and, if deemed necessary by the LEA, they are revised.

2. OPERATIONS

LEAs (or Board personnel when designated as enforcement agency) perform monthly facility inspections (less frequent inspections for some operations), prepare inspection reports and issue any resultant corrective action, cease and desist order and/or penalty. Board personnel review LEA inspection reports, may recommend enforcement actions, review LEA orders, inspect all active landfills every 18 months and inspect other facilities as needed to evaluate LEA performance. Board staff also maintains an inventory of solid waste facilities that violate State minimum standards.

The Board may hear an appeal of a local hearing panel decision relating to a dispute over local enforcement and may take direct enforcement action if the LEA fails to do so.

3. CLOSURE AND POST CLOSURE FOR LANDFILLS

The Board reviews and approves facility closure plans submitted by owners or operators, including assurance that adequate technical and financial resources are available for facility closure and post closure. The Board reviews the technical, engineering and financial aspects of solid waste landfill post closure maintenance plans and disposal site post closure land use proposals. Board personnel support the LEA in taking action against closed sites, may inspect those sites and take action to initiate clean up pursuant to the provisions of the Public Resources Code, sections 48020 et seq.

4. LEA PERFORMANCE

The Board certifies each LEA program, monitors the quality of their routine performance and of the documents they submit to the Board and conducts an overall evaluation of their performance every three years. The Board may decertify an LEA if found to be not adequately performing one of the delegated functions which are:

- Write, condition, issue, suspend, and revoke permits.
- Conduct required inspections of solid waste facilities.
- Take appropriate enforcement action, including writing notice and orders.
- Assess administrative and civil penalties.
- Propose facilities for the inventory of sites that violate State minimum standards.
- Write and enforce compliance plans for sites listed in the inventory.
- Take action to clean up illegal sites.

5. CLOSED, ILLEGAL AND ABANDONED WASTE DISPOSAL SITES

There are currently over 2,500 closed, illegal, and abandoned (CIA) sites on the Board's Solid Waste Information System (SWIS) database. These sites have the potential to present a variety of hazards to the health and safety of the public as well as adverse impacts to the environment. LEAs are responsible for the investigation and assessment of CIA sites. The CIWMB staff assists LEAs in the investigation of these sites. About 1,300 CIA sites have been assessed and classified according to potential threat to human health and the environment.

Currently, 12 CIA sites are under investigation and enforcement action by LEAs. Clean up is by the current property owner or other potentially responsible parties.

B. CIWMB ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001

**1. ENFORCEMENT AND COMPLIANCE PROCEDURES
RULEMAKINGS COMPLETED**

This rulemaking addressed changes in the Public Resources Code brought about by AB 59 (1995 Sher). The regulations clarify and improve enforcement tools available to the Board and local enforcement agencies (LEAs) for ensuring compliance with State and federal waste management law. Changes in regulation include:

- Updates to enforcement related sections in Title 14, California Code of Regulations, making them consistent with current statutes and related regulations;
- Clarifies procedures when CIWMB is acting as the enforcement agency;
- Clarifies processes, procedures, and requirements for designating, operating and evaluating LEAs;
- Incorporates criteria for determining if an LEA is taking appropriate enforcement actions and procedures CIWMB must follow prior to taking its own enforcement action

2. FINANCIAL ASSURANCES PROGRAM

This program implements and enforces the statutory and regulatory financial assurance requirements for solid waste landfills. The Board has authority to assess administrative civil penalties of up to \$10,000 per day against violators, landfill operators, based on criteria established in regulation. Because compliance is the ultimate goal, the regulations allow for several compliance options other than assessment of civil penalties. These options include Notice and Order, Stipulated Notice and Order, placing restrictions on current financial assurance mechanisms currently being used by the operator, and requiring establishment of alternative mechanisms. This enforcement program is relatively new and no penalties have yet been assessed. However, several actions have been taken over the past three years as noted below.

1999	3 Notices of Violation issued
	1 Attorney General referral
2000	4 Notice and Orders issued
	3 Stipulated Notice and Orders entered into

2001 3 Notices of Violation issued
 1 Notice and Order issued

3. RIGID PLASTIC PACKAGING CONTAINER (RPPC) PROGRAM

The statute for this program directs the Board to require self-certification by product manufacturers of their compliance with one or more of the allowed compliance options if the all-container RPPC recycling rate adopted by the Board for that compliance year does not meet or exceed the 25% statutory threshold. Among other things, the Board has authority to assess administrative penalties of up to \$50,000 per violation, after notice and hearing with an Administrative Law Judge present. The total amount of penalties allowed per year is \$100,000.

The Board has initiated certifications for the 1996, 1997, 1998, 1999, and 2000 compliance years. The 1996 compliance certification is complete, the 1997 through 1999 compliance certification is nearly complete, and the 2000 compliance certification is in the very early stages, therefore no data is yet available.

1999 2 Stipulated Compliance Agreements - 1996 compliance year

2000 5 Stipulated Compliance Agreements - 1996 compliance year
 1 Administrative Penalty hearing - 1996 compliance year,
 \$20,000 penalty

2001 58 Stipulated Compliance Agreements – 1997-1999 compliance
 year

4. ENFORCEMENT FOR PLANNING AND LOCAL ASSISTANCE PROGRAM

In 1998 and 1999, the Board issued 65 Compliance Orders to jurisdictions for failing to adequately implement their Source Reduction and Recycling Elements (SRRE) and/or Household Hazardous Waste Elements (HHWE). During 2001, 19 of these Compliance Orders were successfully completed. To date, 20 Compliance Orders are still in force and documentation submitted by the jurisdictions in response to those Orders is being reviewed. This review includes on-site audits to verify documentation. After staff have completed review of each jurisdiction's submittals, the Board will determine if the jurisdiction has successfully completed the Compliance Order or if it should be subject to a fine of up to \$10,000 a day. During 2001, the Board did not issue any new Compliance Orders as the next biennial review cycle will commence in 2002.

C. CIWMB ENFORCEMENT GOALS FOR 2002

1. ENFORCEMENT ASSISTANCE GRANT PROGRAM

In 2001, the Enforcement Grant program provided a total of \$1.5 million in annual grants to local enforcement agencies to assist with enforcement program implementation. This year, CIWMB will initiate a rulemaking that states the process for this program.

2. CLOSED, ILLEGAL, AND ABANDONED SITES

CIWMB's Closed, Illegal, and Abandoned (CIA) Sites Unit have begun conducting Phase I investigations of approximately 500 known and suspected burn dumps in the state. The Cal/EPA Burn Dump Work Group will use information gathered through these investigations to better facilitate the regulation and remediation of burn dumps.

3. FIVE-YEAR PLAN

Pursuant to the requirements of the Public Resources Code, section 42885.5, the CIWMB developed a Five-year Plan for the Waste Tire Recycling Management Program (Plan) to be submitted to the Legislature by July 1, 2001. A public meeting was held on January 16, 2001, to obtain input from stakeholders on this Plan. CIWMB staff used input from stakeholders to further develop the program elements. Additional comments were received at the meeting on February 21, 2001. On March 20, 2001, board members approved the Plan for submittal to Cal/EPA, the Governor, and the Legislature. The Plan includes the following elements, with funding allocations, and performance criteria for each:

- Enforcement and regulations relating to waste and used tires storage.
- Cleanup, abatement, or other remedial actions related to tire stockpiles.
- Research that develops and promotes alternatives to the landfill disposal of tires.
- Market development and new technology activities for used tires and waste tires.
- The waste and used tires hauler program and manifest system.

One of the major steps in the process of implementing the Plan is the development and implementation of the Waste Tire Manifest Tracking/Monitoring System. The Feasibility Study Report for a new manifest database has been completed by the Board and approved by the Department of Information Technology. CIWMB is now able to proceed with the development and testing of the new Manifest Tracking/Monitoring System.

4. USED OIL GRANTS

Board members awarded \$10 million in 2001/02 used oil block grants in July 2001. CIWMB Staff will evaluate the grant application packets submitted in 2001 for the 2002 grant awards, and grant used oil opportunity grants in July 2002.

5. HOUSEHOLD HAZARDOUS WASTE GRANTS

Board members awarded \$3 million in HHW Grants for fiscal year 2001/2002 in August 2001. CIWMB will continue with the grant program in 2002.

CIWMB will continue to work on budgetary, legislative, and programmatic efforts to improve its environmental enforcement capability.

6. LEA ENFORCEMENT ACTIONS

Some 53 Local Enforcement Agencies (LEAs) take enforcement action by issuing Notices and Order to cease and desist an unauthorized activity, or to clean up and abate a pollution, hazard or nuisance. The following counts of Notices and Order were issued by LEAs since 1999:

1999	40 Notices and Order
2000	33 Notices and Order
2001	35 Notices and Order

VI

DEPARTMENT OF PESTICIDE REGULATIONS

A. CDPR ENFORCEMENT RESPONSIBILITIES OVERVIEW

The California Department of Pesticide Regulation (CDPR) has an effective pesticide enforcement program that goes back 100 years, in fact the year 2001 was the 100th anniversary of California's pesticide laws. California's pesticide regulatory program is the most comprehensive and effective in the world. The combination of the statewide guidance and oversight provided by the Department and the local permitting and enforcement provided by the County Agricultural Commissioners makes the pesticide regulatory system in California robust and responsive. California's program covers every corner of the state, with experienced and capable personnel. Governor Davis has charged his environmental managers with basing regulatory decisions on sound science and with enforcing the law.

The key to improving CDPR's program is through the strong enforcement of our laws. If farmers, businesses and homeowners do not comply with the restrictions placed on pesticide use, these toxic chemicals can and do cause problems. As we review the data on the health and environmental impacts of pesticides, we continue to find risks that need to be mitigated. Consequently, it is incumbent on us at the Department and on our partners in offices of the County Agricultural Commissioner, to ensure that pesticide users understand and comply with the laws and regulations we have established, and that violators are prosecuted.

California has a multifaceted pesticide regulatory program that was officially recognized in 1935, and continues to provide commendable service to our stakeholders to this day. Since that time, both the State and county programs have grown to encompass not only agricultural considerations but also urban pesticide use issues, environmental contamination, worker safety, endangered species protection, and community relations. Between CDPR and the county agricultural commissioners (CACs), we have the largest licensed and credentialed staff devoted to pesticide use enforcement in the nation.

B. CDPR ENFORCEMENT ACCOMPLISHMENTS FOR 1999-2001

1. 2000-2001 BUDGET

When the Cal/EPA Comprehensive Enforcement Budget Plan was approved in the 2000-2001 budget, CDPR gained 5 new positions and \$421,000 to further its ability to address the goals of Cal/EPA's Enforcement Initiative, and to strengthen the Pesticide Enforcement Program. CDPR then added, added a Staff Services Manager I (SSMI), two Research Analyst II (RAII), and two Senior Special Investigators (SSI) positions to the Enforcement Program.

The SSMI and RAII positions were added to provide continuous program evaluation through statistical and systems analysis using current data; recommendations for data quality and enforcement program improvements; and mechanisms to measure the effectiveness of recommended performance improvement(s). To date the SSMI and RAII positions remain vacant. However, efforts to fill one of the RAII positions are currently underway by the Enforcement Branch.

The SSI positions were added to improve the quality and consistency of investigation and case files for commissioner administrative civil actions and state licensing and enforcement actions. Three of the Branch's four SSI positions were reclassified as Senior Pesticide Use Specialist (SPUS) positions and assigned to the Enforcement Branch's regional offices. Currently, a lead SPUS "investigator" is assigned to each of the Branch's three regional offices.

2. ENFORCEMENT TRACKING SYSTEM IMPROVEMENT

In 2000, CDPR obtained \$400,000 from the legislature to create an enforcement tracking system. Although CDPR has had information tracking capabilities for years, this new system will allow CDPR to track all pesticide violations recoded by the county agricultural commissioners. The system will allow CDPR to identify cases where state- rather than local- action would be more appropriate to deal with serious violations that cross county lines. This initiative will improve CDPR's ability to identify and analyze trends and issues relative to compliance with pesticide laws in several ways:

- CDPR is undertaking a one-year pilot program to assess costs, benefits, and issues associated with collection and analysis of compliance information generated by counties at the local level.
- Because local county agricultural commissioners (CAC) conduct inspections on a broader scope and number than relative to compliance assessment surveys by CDPR, CAC inspections represent an untapped source of statewide compliance information on a greater range of industry sectors and pesticide-related activities. The information compiled will provide a more accurate picture of the agricultural industry's compliance with federal, state and local pesticide regulatory requirements.

3. ENHANCED ENFORCEMENT POWERS

Effective January 2001, the legislature gave CDPR the authority to impose civil penalties of up to \$5000 per violation for serious pesticide incidents or those that involve multiple jurisdictions. The same legislation gave County Agricultural Commissioners new authority to suspend or revoke the permits of agricultural pesticide users and businesses that disregard county pesticide fines or other lawful orders (see legislation update below).

4. INTERNET SALES TASK FORCE

In January 2000, CDPR launched the Internet Mail Order Pesticide Sales Task Force to investigate and prosecute unlawful pesticide sales in California. The Internet has created new venues for the sales of many goods and services, among them the sales of pesticides that are unregistered and, therefore, illegal for use in California. The task force is developing recommendations for amending existing laws and regulations and for educating the regulated community about the problem.

One case has been established against a catalog sales firm "Gardens Alive." The Gardens Alive case involved a mail order business that was offering for sale and selling unregistered pesticide products into California. Gardens Alive is based out of Indiana, and they sold a significant amount of unregistered pesticides into California during 1996, 1997, 1998 and 1999. The case closed June 6, 2001, that included a settlement fine of \$35,000.

5. LEGISLATION AFFECTING PESTICIDE ENFORCEMENT

- 1999-2000: AB 2260 (Shelly)- the Healthy Schools Act of 2000 was passed and chaptered. This legislation requires various state agencies, including CDPR, to take specified actions to ensure the environmental safety of children.
- 1999-2000: SB 1970 (Costa)- the Economic Poisons bill was passed and chaptered. This legislation covers several areas:
 - i. The bill provides for the refusal, revocation, or suspension of a permit regarding the use of pesticides, for the failure to pay a civil penalty or comply with a final, lawful order from the agricultural commissioner,
 - ii. The bill provides that it is unlawful to refuse or neglect to pay a civil penalty levied for specified violations involving pesticides.
 - iii. And the bill would also authorize the director of CDPR to initiate and maintain enforcement actions for violations committed in multiple jurisdictions or in other specified cases, and to refer those cases to the local district attorney or the Attorney General.

6. COMPLIANCE ASSESSMENT REPORT

CDPR administers a statewide enforcement Compliance Assessment Program and oversees local enforcement programs administered by county agricultural commissioners. This program is part of a statewide effort to improve the quality of State and county enforcement programs. In 2001, the CDPR integrated compliance data into a Compliance Assessment Report providing a general overview that

examines factors relative to the improvements of State and county programs. The Compliance Assessment Report, subtitled “Pesticide Handler and Field Worker Safety Survey, June 1997-March 2001, includes assessment of compliance with laws and regulations pertaining to pesticide handlers, field workers, and closed systems used for mixing and loading operations. The report is available on CDPR’s website at www.cdpr.ca.gov.

The Compliance Assessment Report found that growers had a significantly lower rate of compliance than that of professional agricultural pest control businesses. However, there were shortcomings in how professional handlers complied with requirements for use of personal protective equipment (for example, respirators and protective clothing). There were also lower rates of compliance in professional handler use of closed pesticide mixing, loading and, handling systems, designed to protect the worker against exposure to highly hazardous liquid pesticides.

Recommendations in this report included:

1. Improve statewide compliance with personal protective equipment (PPE) requirements on pesticide labels and regulatory requirements:
 - Creation of an outreach program which will determine the causes/types of PPE violations and provide a coordinated outreach effort to target the source of those problems.
 - Assist CACs in developing outreach programs.
 - Distribute outreach programs developed by CACs through focused activities.
2. Improve statewide compliance with “field-worker safety” regulations and related pesticide label requirements such as hazard communication and display of application-specific information:
 - Focus on grower/industry groups and employee organizations.
 - Collaborate with public entities such as the University of California, CACs and, local Health Departments.
3. Conduct Inspection procedures review (Enforcement Initiative):
 - Survey commissioners for input prior to review
 - Review/revise Inspection Procedures
 - Focus CDPR overview inspections on field worker safety inspections.

- Utilize the Compliance Workgroup to review and analyze Overview inspections
4. Improve statewide compliance with closed system requirements. Increase CDPR and CAC understanding of the sources of closed system compliance problems:
 - Survey commissioners for input prior to development of closed system training module.
 - Review Pesticide Safety Information Series.
 - Request documentation of engineering problems from the commissioners. Use this information to pursue the closed system engineering and pesticide labeling problems at the state and national levels.
 5. Improve statewide compliance program by:
 - Revise CDPR's enforcement guidelines to ACPs levied by CACs.
 - Revising CDPR's Procedural Guidance Manual
 - Amend the Civil Penalty Guideline regulations to hold CACs more accountable relative to taking appropriate enforcement actions.

Several program improvements were implemented as a result of findings identified in the Compliance Assessment Report, including:

1. After the Compliance Assessment was conducted in each county, the "compliance evaluators" reviewed specific recommendations to improve those areas which were found to be in low compliance.
2. The above recommendations were incorporated into the 2001/2002 Prioritization Plan.
3. Based on the Prioritization, Plan, Senior Pesticide Use Specialists, re-negotiated County Negotiated Work plans (NWP) to increase focus on PPE, display of application specific information and, closed system requirements.
4. CDPR Developed three outreach documents (booklets):

- It's as Simple as PPE (Personal Protective Equipment (PPE) for field workers.)
- Pesticide Safety: It's The Law (Pesticide laws and regulations for fieldworkers and pesticide handlers.)
- What to Say Before You Spray (Notification, posting and, display requirements.)

7. PESTICIDE DRIFT TARGETING INITIATIVE

CDPR's Enforcement Initiative of 1999, made pesticide drift a high priority, since drift may injure people contaminate the environment and damage crops and property. In 2000, CDPR worked with the county agricultural commissioners to revise a drift policy to assure that all incidents or suspected incidents will be investigated. CDPR is currently working with concerned stakeholders to improve drift regulations.

8. CDPR MILL FEE ASSESSMENT INCREASE

CDPR imposes a fee on pesticide sales and uses the funds generated to support local regulatory programs. The audit Branch assures that products are legally registered for sale and that mill fees are paid. As CDPR conducts more audits, assessments have increased from about \$61,000 in fiscal year 1995-1996, to more than \$1.4 million in 1999-2000. CDPR also received a \$432,456 settlement for mill assessments owed by Brita Products Co., a subsidiary of Clorox Co. - the second largest mill debt settlement in CDPR history.

9. BORDER PROGRAM

In 2000, CDPR's Enforcement Branch worked with commissioners and federal and Mexican pesticide authorities to coordinate cross-border training. CDPR enforcement staff met with their counterparts in Mexico during 2000 to study Mexican enforcement activities, and Mexican officials visited California to learn about CDPR investigation and inspection techniques.

During 2001, coordination activities with CDPR's partners from the Republic of Mexico increased and several projects were formally initiated or enhanced including:

- **Residue Tracking Project:** The goal of this project is to develop procedures that accurately identify the source of produce from Mexico with residue with over-tolerance levels. The project allows Mexico's Sanidad Vegetal to locate the source more effectively and take steps to avoid such lots in the future.
- **Pesticide Episode Response Project:** The goal of this project, initiated in response to an aerial drift incident in California's border region, is to

develop a system to share information about human health data, investigative and sampling techniques, and pesticide exposure.

- Coordinated Press Release Project: C DPR plans to coordinate efforts with the border region counties, to curtail the transport of pesticides from Mexico for personal use and coordinate efforts to educate the public about the hazards associated with many of these pesticide products.
- Pesticide Information and Inspector Exchange Project: This project is designed to strengthen cooperation between various agencies in both countries. It provides regulators and scientists from the U.S. and Mexico an understanding of the approaches and program requirements undertaken from both countries.

C. C DPR QUANTITATIVE ENFORCEMENT RELATED DATA FOR 1999-2001

C DPR has an in depth information tracking system and can provide enforcement related information going back over a decade. This information is used by C DPR to calculate the mill tax disbursements⁷ provided the counties every year and therefore is relatively accurate. The enforcement data referenced below includes the fiscal years 1998-1999, and 1999-2000. The information for 2000-2001 is still being collated and will be provided in the next enforcement report. As a reference point, the data for fiscal year 1997/1998, is provided as well.

In fiscal year 1997-1998 the CACs:

- Conducted approximately 57,000 pesticide use inspections,
- Conducted 8,000 records inspections,
- Conducted 2000 investigations,
- Issued 48,000 permits,
- Evaluated 200,000 Notices of Intent to apply restricted use pesticides,
- Certified and licensed 19,500 private applicators,
- Identified 5,300 non-compliances,
- Took 6,700 compliance and enforcement actions, and
- Provided training and outreach to almost 34,000 people.

For fiscal year 1998/1999, the CACs:

- Conducted approximately 40,554 pesticide use inspections
- Conducted 11,036 records inspections,
- Conducted 2,091 investigations,
- Issued 46,620 permits,
- Evaluated 213,330 Notices of Intent to apply restricted use pesticide,

⁷ C DPR imposes a fee- the mill assessment on pesticide sales to support the regulatory program.

- Certified and licensed 16,145 private applicators, and denied 360 certification,
- Identified 9,817 non-compliances,
- Took 5,565 Compliance and Enforcement Actions, and
- Provided training and outreach to 35,823 persons.

For Fiscal year 1999-2000, the CACs:

- Conducted approximately 39,849 pesticide use inspections
- Conducted 18,770 records inspections,
- Conducted 1812 investigations
- Issued 40,782 permits, and denied 661 permit applications
- Evaluated 194,398 Notices of Intent to apply restricted use pesticide
- Certified and licensed 10,215 private applicators, and denied 408 certification,
- Identified 10,072 non-compliances,
- Took 5,937 Compliance Enforcement Actions, and
- Provided training and outreach to 32,611 persons.

The County Agricultural Commissioners are currently reviewing their 1999, 2000, and 2001 Administrative Civil Penalty actions to finalize the totals below; the following fines and penalties have been collected in the last three years:

Year-	1999	2000	2001
Penalty	\$268,932	\$267,951	\$138,785

D. CDPR GOALS FOR 2002

The Prioritization Plan describes the goals that CDPR expects to accomplish in the year ahead. It facilitates program improvements by providing the county agricultural commissioners (CACs) with information on statewide CDPR priority issues. Since this is a guidance document intended to provide insight into those areas that CDPR considers a priority, CACs will continue to have significant flexibility in developing Negotiated Work Plans (NWP) that address their local needs as well as statewide priorities, where appropriate.

CDPR developed the Prioritization Plan after reviewing information from the following sources: the Compliance Assessment Program; the Pesticide Illness Surveillance Program; the Compliance/Enforcement Action Database; and the Pesticide Regulatory Activities Annual Reports submitted by the CACs.

The goals of the plan include:

- Improve the consistency, timeliness, and quality of pesticide illness investigations statewide.

- Provide training to the agricultural commissioners in such areas as investigations, groundwater protection, and inspection procedures.
- Improve statewide compliance with regulations and pesticide labels describing personal protective equipment requirements.
- Improve statewide compliance with field worker safety regulations and related pesticide label requirements.
- Improve statewide compliance with closed system requirements.
- Reduce the number of pesticide drift incidents that result in human exposure, environmental contamination or property damage.

CDPR will continue to meet the increasingly complex demands placed on it by our stakeholders and ourselves, by encouraging our staff to be professional in the activities they conduct, and in particular with regard to the enforcement actions that the Department and Commissioners take against those who violate these laws.

VII

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

A. DTSC ENFORCEMENT RESPONSIBILITIES OVERVIEW

The Department of Toxic Substances Control (DTSC) is responsible for regulating hazardous waste facilities and overseeing the cleanup of hazardous waste sites in California. DTSC's Enforcement Program monitors all hazardous waste generators, transporters, and hazardous waste management facilities to promote compliance with State and federal laws.

Through its inspection, compliance and corrective action programs, DTSC requires that State and federal standards for managing hazardous wastes be implemented. Nearly 200 major commercial facilities have authorization to treat, store and/or dispose of hazardous wastes in California. Businesses that conduct lower-risk treatment activities are regulated through a streamlined tiered permitting process, and associated programs that provide an appropriate level of oversight.

DTSC carries out its own statewide inspection program and responds to nearly 1,000 citizen complaints regarding hazardous waste handling per year. Technical and investigative support is provided to federal prosecutors and local district attorneys prosecuting environmental crimes.

DTSC has concurrent jurisdiction with local agencies (Unified Program Agencies) to conduct inspections and enforce hazardous waste laws. The UPAs are the primary enforcement agencies for hazardous waste generators and certain on-site waste treatment activities.

DTSC pursues criminal investigations regarding allegations of violations of the hazardous waste control laws through the Criminal Investigations Branch within the Office of Legal Counsel and Criminal Investigations. This branch consists of peace officer investigators and is the only organization within Cal/EPA that is staffed with peace officers.

B. DTSC ENFORCEMENT ACCOMPLISHMENTS 1999-2001

The program monitors hazardous waste transfer, storage, treatment and disposal facilities for illegal activity, using tools such as electronic manifest surveillance to monitor registered hazardous waste haulers, for example. Appropriate action is taken against hazardous waste handlers that violate hazardous waste requirements found through routine inspections, complaint investigations, and focused enforcement initiatives. The program also provides technical investigation assistance and expert testimony for civil and criminal investigations. Accomplishments over the past three years include:

1. THE COMPREHENSIVE ENFORCEMENT INITIATIVE

In the early 1990's, DTSC's enforcement positions numbered 184, but due to significant cutbacks it was down to only 100 positions by 1998. As a result, by 1999, less than a total of five positions combined were devoted to the Circuit Prosecutor's Program, the Environmental Crimes Task Force Support Program and the Mexico Border Project. In 1999, DTSC identified the 46% reduction in resources for its basic regulatory enforcement program as one of the greatest impacts to its ability to effectively prosecute its enforcement mandate. In the Cal/EPA Comprehensive Enforcement Budget Plan for FY2000-2001, DTSC requested and received approval to restore part of the 46% of enforcement resources lost due to budget cuts during the six years prior to 1999. DTSC received 25 positions that included Task Force Support and criminal investigator positions, and \$549,000 to upgrade lab equipment.

2. DEVELOPMENT OF THE TASK FORCE SUPPORT AND SPECIAL INVESTIGATIONS UNIT

DTSC strengthened the enforcement component of its regulatory program through the establishment of the Task Force Support and Special Investigations Branch. This branch was established with 21 positions located in regional offices throughout the state. Its primary responsibilities are to reduce enforcement backlogs, work with environmental taskforces and support multi-media, multi-agency initiatives being developed by Cal/EPA.

3. REGULATORY INITIATIVES

- Administrative Penalty Assessment Regulations. DTSC adopted regulations that govern the assessment of penalties in administrative enforcement actions.
- RCRA-Equivalent Financial Assurance Regulations. DTSC adopted regulations that allow California to maintain its Resource Conservation Recovery Act (RCRA) authorization for financial responsibility.
- Financial Assurance Evaluations. DTSC continued to evaluate financial assurance instruments used by hazardous waste facilities to verify adequate coverage for third party liability, as well as adequate financial resources to cover closure and post-closure costs.
- Emergency regulations for cathode ray tubes. The new regulatory system will facilitate the effective collection and recycling of these products, and provide a cost-effective alternative to disposal in municipal landfills.

4. CALIFORNIA-MEXICO BORDER

DTSC is working with Cal/EPA, U.S. EPA, County of San Diego, and other agencies to develop a collaborative U.S./Mexico plan that addresses environmental issues in and near communities along the border, including the monitoring of the import and export of hazardous waste along California's southern border. DTSC has opened a new office in San Diego and charged it with overseeing a border program that focuses on border related issues. This unit's personnel routinely conduct border truck stops at the Calexico and San Diego border crossings to monitor import and export of hazardous wastes. During the first half of 2001, border truck stops were conducted on 16 occasions at the Calexico crossing with a total of 163 vehicles being inspected. At the San Diego border crossing during the same period of time, 725 vehicles were inspected.

A high priority proposal to augment DTSC's Border Program funding for FY 2000-01 was approved which allowed for increased activity in existing tasks and the implementation of new activities. Based on past years of program experience, a need was recognized to make the program more effective by providing additional training to representatives of industry and government, establishing bilingual capability for the complaint Hotline, developing more enforcement actions, and focusing efforts on pollution prevention projects. All of these activities help to enhance compliance with California's hazardous waste laws and regulations in the border region.

5. DATA MANAGEMENT PROJECT

Development and planning for a data management project will continue. The permitting and inspection, complaint, and enforcement modules development commenced in January 2002, and is expected to be completed by June 2002. The newly designed data system will be a Internet browser based system housed on DTSC's Intranet. It will be accessible statewide by DTSC staff for inputting data or obtaining reports regarding various aspects of inspections, complaints, enforcement, or permit status.

6. IMPLEMENTATION OF BUDGET AUGMENTATION

A Cal/EPA Comprehensive Enforcement Budget Plan to establish approximately 26 new enforcement positions within DTSC for the 1999-2001 fiscal year was approved effective July 1, 2000. These positions were established in the Statewide Compliance Division (SCD) and State Regulatory Programs Division (SRPD) within the Hazardous Waste Management Program and Criminal Investigations Branch (CIB), Task Force Support and Special Investigations Branch (TFS & SIB), and the Office of Legal Counsel within the Office of Legal Counsel and Criminal Investigations. These positions were created to assign priority to both criminal and regulatory enforcement of the Hazardous Waste Control Law, develop needed

infrastructure for success, and address hazardous waste issues raised by the Governor, Legislature and the general public.

Using new positions approved by the Legislature, DTSC has investigated and prosecuted more environmental crimes, conducted more frequent facility inspections, aggressively pursued enforcement actions, provided additional laboratory resources to facilitate the collection of analytical evidence in support of enforcement actions, and provided inspectors and investigators with improved technological capabilities to enhance enforcement efforts.

DTSC hired 6.5 new positions within SCD (4 permanent and 2.5 two-year limited term positions) to perform the following activities:

- Establish and maintain a toll free complaint hotline with bilingual capability
- Conduct investigations of suspicious shipments
- Develop a manifest tracking system that will identify problem manifests
- Conduct inspections as California treatment, storage, and disposal facilities that receive wastes from Mexico
- Perform focused inspections on wastes being imported or exported for recycling, and Implement pollution prevention pilot projects

Using new positions approved by the Legislature, DTSC has investigated and prosecuted more environmental crimes, conducted more frequent facility inspections, aggressively pursued enforcement actions, provided additional laboratory resources to facilitate the collection of analytical evidence in support of enforcement actions, and provided inspectors and investigators with improved technological capabilities to enhance enforcement efforts

C. QUANTITATIVE ENFORCEMENT INFORMATION

1. Criminal, Civil, and Administrative Case Filings

Type of Action	Calendar Year		
	1999	2000	2001
Criminal Referral *	24	24	21
Civil Referral **	3	13	6
Administrative Order ***	68	81	150

* Note: DTSC does not file criminal cases. DTSC refers such cases to the appropriate local jurisdiction. This table reflects criminal referrals by CIB, SCD, State Regulatory Programs Division (SRPD), and TFS&SIB.

** Note: DTSC does not file civil cases. DTSC generally refers such cases to the Attorney General for filing.

*** Data on civil referral and administrative orders issued by calendar year were derived from the interim enforcement database.

2. SEPs, Cleanups, and Settlement Agreements

Enforcement Related Activity	Year		
	1999	2000	2001
Supplemental Environmental Projects *	8	3	6
Cleanups	0	0	0
Settlement Agreements **	79	87	157

* Note: Includes credits for California Compliance School.

** Note: Settlement Agreements includes administrative orders settled and settlements of DTSC cases handled by the Office of the Attorney General.

3. Fines, Penalties, and Restitution

Result of Enforcement Activity	Year		
	1999	2000	2001
Fines *	\$40,000	\$15,500	\$23,500
Penalties **	\$2,321,669	\$4,763,495	\$2,622,669
Restitution ***	\$99,644	\$82,469	\$121,572

* Note: Fines are generally considered to be the monetary part of a criminal action in this report.

** Note: Penalties amounts listed are the settlement amounts from civil and administrative cases settled.

*** Note: Restitution includes cost reimbursement of \$41,944 in 1999, \$42,469 in 2000, and \$87,307 in 2001.

4. Informal Enforcement Actions

Type of Informal action	Year		
	1999	2000	2001
Summary of Violations/Notice to Comply	126	257	221

D. DTSC ENFORCEMENT GOALS FOR 2002

DTSC is committed to the enforcement of environmental laws and regulations within its charge. As the recent budget augmentations and internal restructuring take hold, DTSC is looking forward to pursuing its enforcement mandate.

1. FINANCIAL RESPONSIBILITY

DTSC will conduct reviews of existing financial mechanisms to assure that: (1) sufficient funds are available to pay the costs of closure and post-closure care at regulated facilities; and (2) DTSC responds swiftly and appropriately to financial assurance difficulties resulting from bankruptcies and other economic developments.

2. INFORMATION TECHNOLOGY ENHANCEMENTS

DTSC will modernize its enforcement data management systems so that accurate and “real-time” reports of enforcement activity can be produced on demand by staff working in the regional offices and at headquarters. Staff will also be able to enter data from any office in the State through an Internet browser based system.

3. INTERNAL GUIDANCE REVISIONS

DTSC will update and publish policies and procedures, management memoranda, and guidance documents in a single compendium for inspectors and other interested persons.

4. ADOPTION OF MANIFEST DISCREPANCY REGULATIONS

This rulemaking will strengthen reporting requirements for Manifest Discrepancies that will provide for stricter control of hazardous wastes that hold potential for uses as weapons of terror.

VIII

OFFICE OF HEALTH HAZARD ASSESSMENT

The Office of Health Hazard Assessment (OEHHA) is responsible for developing and providing state and local government agencies with toxicological and medical information relevant to decisions involving public health. Their mission is to protect and enhance public health and the environment by objective scientific evaluation of risks posed by hazardous substances.

In November 1986, California voters approved an initiative to address growing concerns about exposures to toxic chemicals. That initiative became The Safe Drinking Water and Toxic Enforcement Act of 1986, better known by its initiative number on the ballot, Proposition 65 (Prop. 65). This initiative addresses citizen concerns about exposure to substances, which cause cancer, birth defects or reproductive harm, and informs citizens about exposures to such chemicals. OEHHA is the lead agency for Prop. 65 implementation.

Prop. 65 requires the Governor to publish at least annually a list of chemicals known to the State to cause cancer or reproductive toxicity. The requirements imposed by Prop. 65 on persons doing business in California apply to chemicals that appear on the published list and prohibits businesses from knowingly discharging a chemical known to the State to cause cancer or reproductive toxicity into any source of drinking water. It also requires that no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual.

OEHHA does not possess enforcement authority. Enforcement actions under Prop. 65 may be brought by the Attorney General, district attorney, city attorney or city prosecutor, and by any person in the public interest. OEHHA does attempt to track filings of Prop. 65 enforcement matters in the major California jurisdictions (San Francisco, Los Angeles), and other courts.

In October 2001, Governor Gray Davis signed into law new statutory language added by SB 471 (2001, Sher) (<http://www.oehha.ca.gov/prop65/law/p65.html>). This bill amended Health and Safety Code section 25249.7 and requires the court, in assessing the amount of a civil penalty for a violation of the Act, to consider specified factors including, among others, the economic effect of the penalty on the violator, whether the violator took good-faith measures to comply with the Act, the willfulness of the violator's misconduct, and the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community. The bill also made numerous procedural changes applicable to private persons acting in the public interest who file enforcement actions under Prop. 65.

IX

CONCLUSION

This Cal/EPA Environmental Enforcement Progress report outlines the goals that have been set by the agency and the accomplishments that have been achieved. As this report demonstrates, the goals have been ambitious and the accomplishments many. Cal/EPA is responding to the new enforcement challenges of the 21st Century and continues to meet its responsibility to improve and expand the current enforcement mandate.

Cal/EPA recognizes that the majority of entities it regulates take the initiative to voluntarily comply with environmental laws and regulations. However, there are those who are not in compliance due to lack of information, neglect or deliberate intent. Enforcement is one of many tools we have for achieving compliance, along with compliance assistance and education outreach efforts. All these tools should be utilized in a successful regulatory program. Cal/EPA and all of its Boards and Departments are dedicated to ensuring a level playing field for all, the protection of our environment and the protection of public health.

APPENDIX A

LIST OF ACRONYMS

AB	Assembly Bill
ACL	Administrative Civil Liability (SWRCB and Regional Boards)
AEO	Administrative Enforcement Order
AIRS	Aerometric Information Retrieval System Compliance and High Priority Violator Program (ARB)
APCD	Air Pollution Control District
ARB	Air Resources Board
BDO	Boards, Departments and Office in Cal/EPA
CAC	County Agricultural Commissioners
CalARP	California Accidental Release Prevention
Cal/EPA	California Environmental Protection Agency
CalTrans	California Department of Transportation
CAO	Cleanup and Abatement Order
CARBOB	California Reformulated Gasoline Blendstock for Oxygenate Blending
CaRFG	California Reformulated Gasoline
CDA	California District Attorneys Association
CDO	Cease and Desist Order
CDPR	California Department of Pesticide Regulation
CEM	Continuous Emissions Monitoring Program (ARB)
CHP	California Highway Patrol
CIA	Closed, Illegal and Abandoned dump sites
CIB	Criminal Investigations Branch (DTSC)
CIWMB	California Integrated Waste Management Board
CNG	Compressed Natural Gas
CPO	Chief Plant Operator
CUPA	Certified Unified Program Agency
CWAG	Conference of Western Attorneys General
DMV	Department of Motor Vehicles
DTSC	Department of Toxic Substances Control
ED	Enforcement Division (ARB)
EJ	Environmental Justice
eSMR	Electronic Self Monitoring Reporting
FBI	Federal Bureau of Investigation
FSR	Feasibility Study Report
FY	Fiscal Year
H/W PBR	Hazardous Waste Program – Permit By Rule
H/W	Hazardous Waste Program
HDVIP	Heavy Duty Vehicle Inspection Program
HHWE	Household Hazardous Waste Elements
HMRR	Hazardous Materials Release Response Plan and Inventories

LIST OF ACRONYMS (Cont.)

IMS	Information Management Strategy
LEA	Local Enforcement Agency (solid waste)
LPG	Liquefied Petroleum Gas
MMP	Mandatory Minimum Penalty
MSOD	Mobile Source Operations Division (ARB)
MOU	Memorandum of Understanding
MSA	Mutual Settlement Agreement
MTBE	Methyl Tertiary Butyl Ether an oxygenate for fuels
NAFTA	North American Free Trade Agreement
NESHAP	National Emissions Standards for Hazardous Air Pollutants
NOV	Notice of Violations
NPDES	National Pollutant Discharge Elimination System
NTC	Notice to Comply
NWP	Negotiated Work Plans
OBD	On-Board Diagnostic (vehicle emission control indicator equipment)
OEM	Original Equipment Manufacturer
OHV	Off Highway Vehicles
OLA	Office of Legal Affairs
PPE	Personal Protective Equipment
PROFEPA	Procuraduria Federal de Proteccion al Medio Ambiente (Mexican EPA)
RCRA	Resource Conservation Recovery Act
RFG	Reformulated Gasoline
RPPC	Rigid Plastic Packaging Container Program (CIWMB)
RWQCB	Regional Water Quality Control Board
SAE	Society of Automotive Engineers
SB	Senate Bill
SCD	Statewide Compliance Division (DTSC)
SEI	Strategic Environmental Investigations and Enforcement Section
(ARB)	
SEMA	Specialty Equipment Market Association
SEP	Supplemental Environmental Projects
SORE	Small Off Road Engines
SRPD	State Regulatory Programs Division (DTSC)
SRRE	Source Reduction and Recycling Elements
SWIS	Solid Waste Information System
SWRCB	State Water Resources Control Board
TFS&SIB	Task Force Support and Special Investigations Branch (DTSC)
TMDL	Total Maximum Daily Load
U.S. EPA	United States Environmental Protection Agency
VIN	Vehicle Identification Number

