



2007 Cal/EPA Enforcement Report



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2007 CONSOLIDATED ENVIRONMENTAL LAW ENFORCEMENT REPORT

Office of the Secretary
Air Resources Board
Department of Pesticide Regulation
Department of Toxic Substances Control
Integrated Waste Management Board
Office of Health Hazard Assessment
State Water Resources Control Board

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
2007 CONSOLIDATED ENVIRONMENTAL LAW ENFORCEMENT REPORT**

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November 2008

Dear Reader,

Under the direction of Governor Schwarzenegger and California Environmental Protection Agency (Cal/EPA) Secretary Linda Adams to carry out the statutory obligations of Cal/EPA, my staff and I wrote the following Introduction and worked with our allied agencies to bring together the various program reports into this one Consolidated Environmental Law Enforcement Report reflecting 2007 activities.

This effort meets Cal/EPA's statutory obligation under Government Code section 12812.2 to report on the status of our program to ensure consistent, effective and coordinated environmental enforcement in the State of California.

More than that though, this report is intended to be the first of an increasingly understandable and usable yearly effort to reflect enforcement progress over time in the context of an outline that includes the varied pieces of California's decentralized environmental enforcement system. With an understanding of our progress in this larger context, productive program critiques may be made and program improvements will be achieved.

This report is only a start, but it is an important one. The undertaking in and of itself has led to closer working relationships among many of our enforcement partners, building the kind of trust necessary to create an enforcement culture of continuing transparency and improvement. Like most ambitious projects, this effort is a "work in progress" intended to improve from year to year.

The report includes Cal/EPA's Introduction that explains how and why we have a decentralized environmental enforcement system in California, the mechanics of how this report came to be, and a review of the substance of the reports that each of our allied agencies provided.

Following the Cal/EPA Introduction are the reports from the agencies with enforcement responsibilities in the areas of air, water, pesticides, waste and hazardous waste and materials.

Many thanks go out to the dedicated environmental professionals who worked on this effort including my staff and the Cal/EPA Enforcement Initiative Performance Measures Team. Thanks to the enforcement chiefs from each of the state agencies who worked with our staff and with their local allied agencies to bring this document together. Thanks, finally to our local and regional enforcement partners who cooperated in the effort – much of enforcement is local and without the day-to-day efforts of these environmental professionals to protect Californians, their environment and provide a level playing field for fair business competition, California would not be the great State that it is.

Thanks finally to you the reader for taking the time to read this report. If you will, please provide me your written feedback at mbogoshian@calepa.ca.gov. We want to know what you think of the effort, and how we might improve it for next year.

Sincerely,

Matt Bogoshian

Deputy Secretary for Law Enforcement and Counsel
California Environmental Protection Agency

INTRODUCTION

The following report was prepared by the California Environmental Protection Agency (Cal/EPA), its underlying Boards, Departments, Office, and local and regional government enforcement partners. This report meets the reporting requirements of California Government Code section 12812.2 in a way that we hope is more comprehensive, transparent and useful than previous reports. Cal/EPA's ambition is to institutionalize this report so it becomes a valuable tool for a broad audience including government regulators, legislators, the regulated community, non-governmental organizations and citizens alike: all Californians who need an accurate overview of the mechanics of our complicated environmental law enforcement system.

This report is also presented as a part of Governor Schwarzenegger's and Cal/EPA's Enforcement Initiative and is designed to assess and then improve upon California's environmental law enforcement efforts. In 2004, Cal/EPA conducted an assessment of all of California's environmental enforcement resources to understand the system and identify needed improvements. This assessment led to the creation of "Teams" assigned to carry out specific tasks and make recommendations for improvement. The Teams' progress and their continuing work are described in the Office of the Secretary section of this report. Their recommendations to date were presented to Cal/EPA Secretary Linda Adams who signed them into official policy for implementation in November 2007. This report is a part of carrying out these new enforcement policies.

The information contained in this report covers enforcement program activities during calendar year 2007. Future reports will also reflect performance on a calendar-year basis.

A) California's Environmental Law Enforcement System

In order to understand how environmental laws are enforced in California, it is important to understand how the regulatory programs that implement these laws are organized. It is also important to understand the limitations and strengths of those programs.

Within California, government programs for the protection of health and the environment are implemented by a combination of local, regional, state and federal agencies in a decentralized system of government. Each part of the system has a division of responsibility that is outlined in federal, state and local laws and ideally is implemented by these separate governmental entities working in a complementary fashion.

Because of its decentralized nature, the environmental law enforcement system has many varied points of accountability to the public. For example, despite what the name would suggest, this agency, Cal/EPA, is not a monolith of all environmental enforcement in California. Although it is the designated leader with the obligation to coordinate enforcement efforts throughout the state, Cal/EPA does not have direct management authority over all the agencies within Cal/EPA, known as Boards, Departments, and Offices (BDOs) or their local and regional government partners. These state and local agencies have responsibilities that are outlined in law, however, in many cases they are not obligated to report directly to the Secretary of Cal/EPA. For example, Air Pollution Control Districts and County Agricultural Commissioners generally report to local elected city and county officials.

As to which is the appropriate "government" enforcer in any particular situation, it depends on the type of violation (e.g., air, pesticides, water, hazardous waste, etc.) and/or where the violation occurs.

Although federal law provides the baseline for environmental protection in the State of California, state and local laws may be and often are broader in scope with higher standards, creating a level of protection in California greater than federal law provides.

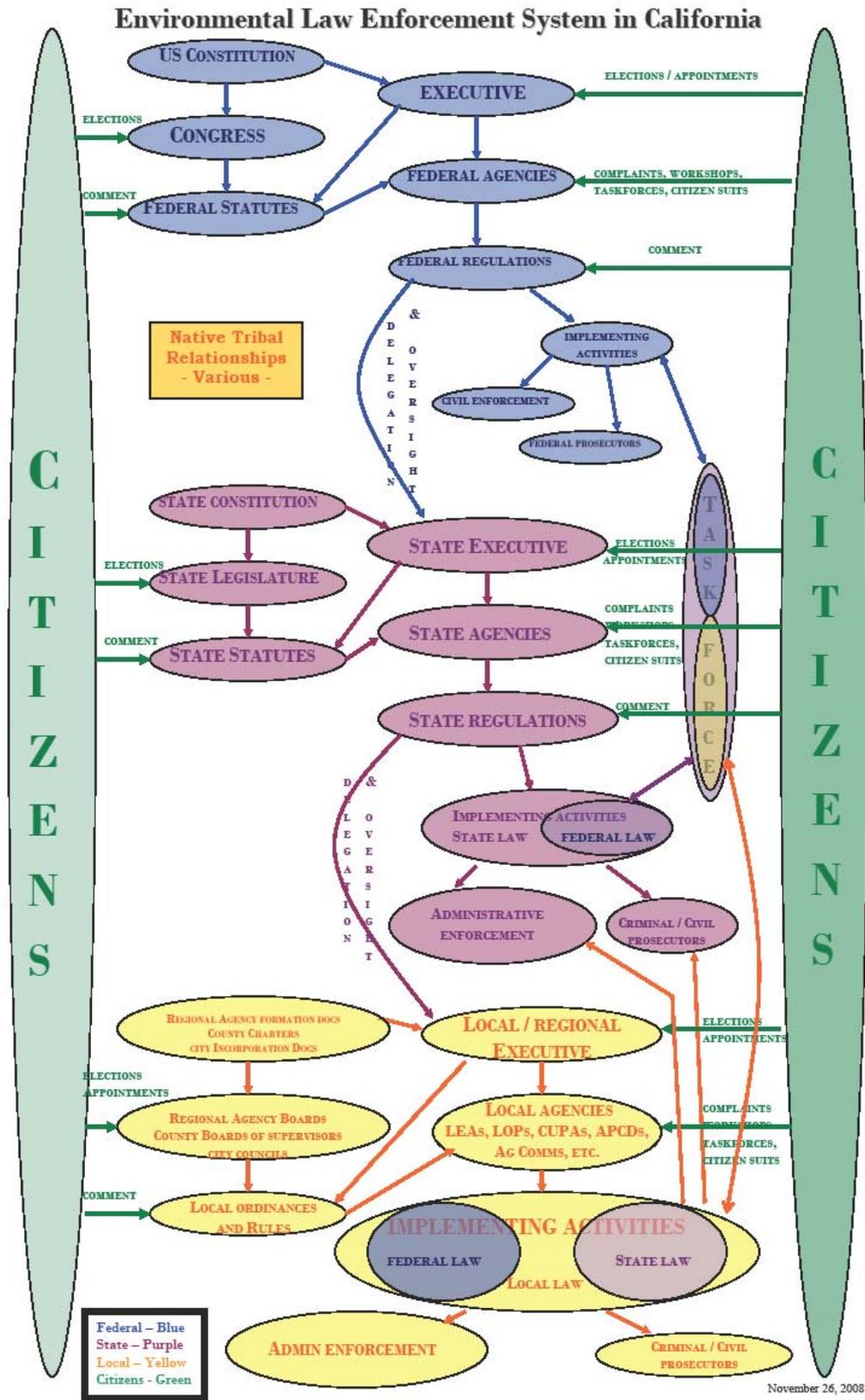
Federal agencies such as the U. S. Environmental Protection Agency (US EPA) only ensure compliance with federal environmental laws. As a result of agreements between the various levels of government, state agencies often agree to be responsible for the enforcement of both state and federal environmental laws. Local governments may also take responsibility for the enforcement of federal and state laws in addition to their own local laws/ordinances. Because of these overlapping authorities and responsibilities, this decentralized organizational structure is often confusing and difficult to understand.

As a result of California's well developed state, regional and local programs, and in comparison to other states, the US EPA has a relatively smaller enforcement role in California. In turn, California relies on state and local government to play a correspondingly larger role to assure that regulated activities/businesses are in compliance.

The number of employees at each level of government help to illustrate this point. US EPA Region IX which has responsibility for California, Nevada, Arizona, Hawaii and the Pacific Territories, has approximate 850 employees. By comparison, Cal/EPA and its six state Boards, Departments and Office have approximately 4,500 employees while at the local level there are thousands of city and county officials who can enforce environmental laws. That said, US EPA is an important partner in California's environmental law enforcement work.

Many of these local and regional enforcement agencies include the 35 Air Pollution Control and Air Quality Management Districts (air districts) that regulate stationary sources of air pollution, 58 County Agricultural Commissioners who regulate pesticide use, nine Regional Water Quality Control Boards that regulate discharges to water, 84 Certified Unified Programs Agencies (CUPAs) that implement hazardous waste and hazardous materials programs and 55 Local Enforcement Agencies (LEAs) that implement solid waste programs.

The employees who work within this complicated web of federal, state, regional, and local efforts are dedicated to carrying out the will of the people as expressed at the various levels of government. Their success depends upon teamwork between active citizens who report violations; businesses dedicated to playing by the rules, and trained regulators doing their duty. On the next page is a chart reflecting the dimensions of our decentralized law enforcement system and the most apparent input points for citizen access. The size of the "bubbles" do not represent the relative size or importance of any group reflected in each.



B) The Need for Accurate and Timely Information

Success in presenting a comprehensive and transparent report for a calendar year depends on accurate information produced in a timely basis. This information does not always come easily as some governmental entities either can not, do not, or are not statutorily required to, provide enforcement information to Cal/EPA. Fortunately, as evidenced by this report, cooperation amongst the various agencies has improved.

In order to protect the health of the public, the environment, and a level playing field for business competition, California environmental law enforcers must understand what enforcement has been done well and what needs to be improved. We need to look at what information gaps exist and figure out how to fix them. We also need to improve how we collect information from the regulated community and how that information flows from and between the many members of our decentralized law enforcement team.

Developing this necessary improvement is the responsibility of two of our Enforcement Initiative Teams: The Data Standards Team and the Environmental Data Exchange Team. Their progress so far is described in the Office of the Secretary section of this report.

C) Cal/EPA's Overview of the Program Report Development Process and Associated Outcomes

This Consolidated Environmental Law Enforcement Report is composed of one report from each responsible agency that describes their respective 2007 environmental law enforcement activities in a standardized manner. To begin the report writing process, the Enforcement Initiative Performance Measures Team, composed of enforcement officials from each of the BDOs, developed a proposed report format for each agency to follow in developing their report. As expected, some agencies wanted changes to the common proposed format, so in some cases the template was modified to meet those requests.

The overall effort required good faith, hard work, and dedication from the staff of each agency involved at a time of overall limited resources and increasing program demands. Cal/EPA very much appreciates the team attitude necessary to make these first reports a reality. In order to improve the annual reports for next year and continue to give a more complete and transparent picture of public efforts to enforce California environmental law, we will need even more of the same kind of cooperation engendered for this first effort.

In each agency's report that follows, the goal was to have state, regional and local law enforcement efforts combined. If a reader wanted to know about 2007 enforcement activities involving solid waste violations, they would refer to the report of the Integrated Waste Management Board and find reflected therein all enforcement activities at the state and local levels. The Department of Pesticide Regulation and the Integrated Waste Management Board were able to accomplish this. In other areas, such a presentation is more difficult. Enforcement of water protection laws, for example, is spread amongst many agencies and some agencies, such as the Department of Public Health and the Department of Fish and Game, are not within Cal/EPA, thus their information is not in this report. The Air Resources Board (ARB) section does not integrate all the local and regional air district information because this kind of reporting is not required by statute, and therefore the ARB does not have this data. Fortunately, the California Air Pollution Control Officers Association (CAPCOA), agreed to report on local and regional air enforcement efforts for 2007, and their information is included in this report.

Six different hazardous materials and hazardous waste programs, called the “Unified Program,” are overseen by Cal/EPA, the State Water Resources Control Board, the Department of Toxic Substances Control, the Office of Emergency Services and the Department of Forestry and Fire Protection. Uniquely, Unified Program agencies are required to report enforcement data directly to Cal/EPA. Information on enforcement activities by the Unified Program agencies is therefore provided as one of the included reports.

We also encouraged each reporting agency to include references to web links that have additional information. We encouraged use of this technique as a way to enhance report readability and brevity and provide an avenue for the reader to acquire more detailed information.

Cal/EPA did not modify the substance of any of the following agency reports because such a delay would defeat benefits borne from the timely reporting of 2007 enforcement activities.

Beginning with next year’s report, we hope to describe enforcement trends overall and compare outcomes next year to the information contained in this year’s report. We also hope that the process necessary to produce each annual report will lead to closer integration of efforts by state, regional and local law enforcers and provide a basis for stronger strategic planning.

Air: Reports of the Air Resources Board and the California Air Pollution Control Officers Association

The Air Resources Board (ARB) is a state agency and the local Air Pollution Control Districts (a term we use to include the multi-county Air Quality Management Districts) regulate different sources of air pollution. Generally speaking, ARB regulates mobile sources and consumer products, and the air districts regulate stationary sources such as factories and gasoline stations. There is no requirement that the air districts report all their enforcement activities to the ARB. This is one example of why we have two reports.

The first report from our state agency (ARB) describes their strong emphasis on enforcement of air pollution violations from cars, trucks, and other mobile sources. In addition to mobile sources, ARB regulates and takes enforcement actions on a number of “consumer products,” a term that includes a large number of categories including hairspray, deodorant and paint. Generally speaking, these products are regulated in order to limit the release of smog-forming volatile organic compounds. ARB’s enforcement program is well developed, well documented and relies mostly upon a system of pre-litigation administrative settlement agreements with few referrals to prosecutors. ARB has by far the largest number of enforcement actions taken in any year and the highest amounts of penalties imposed.

The second air report is from the California Air Pollution Control Officers Association (CAPCOA). CAPCOA’s contribution to this report is very much appreciated and demonstrates their understanding of the public policy importance of transparent and timely enforcement reporting. The information they present is an important first step toward a more integrated and detailed understanding of how air laws at every level are enforced. It includes survey information from 11 of their most populous 35 air districts and shows consolidated trends from the 11 jurisdictions surveyed. Their report also reflects the vast array of enforcement programs they administer.

Going forward, a comprehensive description of district-by-district air enforcement activities consolidated with ARB reporting efforts into one air report would help provide readers with an easier way to understand this complicated, decentralized law enforcement program.

Hazardous Waste and Materials: Report by the Department of Toxic Substances Control

As the only program to have peace officer investigators, the Department of Toxic Substances Control (DTSC) pursues criminals who violate hazardous waste laws. DTSC staff participates in environmental crimes task forces, coordinates and marshals statewide resources to assist with multi-media enforcement actions and provides technical support such as surveillance and sampling to other federal, state and local agencies. As indicated in their report, DTSC is now faced with implementing new programs aimed at reducing the amount of hazardous materials in products packaging and jewelry. DTSC was able to conduct new outreach and education regarding the new standards. Some of DTSC's partners in the traditional hazardous waste control area are concerned about how their new mandates might impact the amount of support DTSC has provided. DTSC is determined to support these traditional enforcement activities and is implementing a reorganization of its structure to help meet these demands.

Hazardous Waste and Materials: Report by Cal/EPA on the Unified Program

Local law enforcers in this area are generally the county or city health or fire departments. These agencies, collectively, are called Certified Unified Program Agencies or CUPAs. Cal/EPA staff wrote this report because it oversees the CUPA program. Most of the 84 CUPAs take formal enforcement actions, utilizing all the formal enforcement tools: administrative, civil and criminal actions, on a regular basis. The CUPAs have pioneered the use of multi-county and statewide civil enforcement actions in recent years to achieve effective enforcement outcomes. It is hoped that this success may be also used within other programs.

The Cal/EPA Office of the Secretary and CUPAs are developing an advanced data system for reporting local enforcement efforts in a wide range of environmental enforcement areas. In 2009, and as a start, this data system will allow for CUPA data to be electronically transferrable from regulated businesses to their local CUPA and then to Cal/EPA. This system will save time and money for both the regulated community and government regulators. It will also allow for more public transparency of this subset of enforcement data. We hope to be able to broaden the use of this database platform to ultimately incorporate a wide range of environmental law enforcement data base information.

Despite the CUPAs enforcement success in general, CUPAs in some parts of the state need to improve. For example, 13 of the 84 CUPAs do not take any type of formal enforcement. This fact requires aggressive state oversight and assistance to ensure that these agencies carry out their duties. As such, Cal/EPA has begun to initiate the steps necessary to provide notice of insufficiency and assistance to these agencies to provide them an opportunity to improve. If appropriate improvement does not occur, Cal/EPA can revoke their certifications so that proper implementation can be carried out by other local agencies or the state.

Pesticides: Report of the Department of Pesticide Regulation

The report by the Department of Pesticide Regulation (DPR) describes six core and two non-core regulatory programs it administers, including oversight of the local pesticide use enforcement by county agricultural commissioner's (CAC) offices. Most pesticide enforcement is administered by the CACs using administrative enforcement tools including warning letters and small fines. In an effort to improve enforcement, DPR issued an enforcement response policy (later placed into regulation) in 2005 encouraging CACs to refer priority investigations to prosecutors for review for possible civil or criminal prosecution. Despite this effort, in the year 2007 there were only two referrals by CACs to prosecutors.

The report candidly reflects how incompatible data systems among its local law enforcement partners, the CACs, make accurate reporting difficult. Despite the incomplete and inconsistent data, DPR also reports that they see enforcement inconsistencies from county to county. DPR describes its determination to address these factors by utilizing the recommendations of a joint DPR/CAC project due out at the end of 2008.

Going forward, finding a way to consistently report on local enforcement activities and encouraging CACs to carry out meaningful and consistent enforcement will be critical steps.

Solid Waste: Report of the Integrated Waste Management Board

Because of its emphasis to improve enforcement, the Integrated Waste Management Board's (IWMB) recent move to consolidate its enforcement activities into one division is a positive sign of progress. IWMB and its local partners have done innovative work to reduce levels of waste tires and illegal dumping. The 660 tire enforcement actions and the new "zero tolerance" strategy for tire haulers appear to be important steps forward toward a more effective enforcement program in these areas. Waste tire pile reductions reduce the chances of major tire fires. Their report however reveals data for administrative actions only and does not include information on referrals for civil and criminal cases that were made by the IWMB and local agencies. In order to convey the complete array of enforcement efforts, it is hoped the information can be included in future reports.

The IWMB report also emphasizes a "compliance first" enforcement philosophy to provide assistance and training to those in the regulated community. In addition, the statutory framework for IWMB's enforcement program is not consistent with other Cal/EPA BDOs. Some argue that such a stated emphasis and framework results in allowing more leniency for first time violations and thus may ultimately discourage more rapid voluntary compliance and be unfair to those who spend the resources up front to comply with the law.

The report describes how the IWMB directly enforces environmental standards at some waste facilities, tire facilities, businesses required to use recycled product content, and governments required to reduce their waste. The IWMB also oversees local enforcement agencies (LEAs) which enforce requirements at most solid waste facilities. This report reveals that more than half of LEAs are not fully meeting their responsibilities and LEAs have been placed on work plans to correct issues. The IWMB and LEAs need to focus on improving performance by meeting the terms of these workplans to fully meet all of the LEA responsibilities. Enforcement by the LEAs and the IWMB on waste management facilities appears to be hampered by an administrative statutory scheme that is cumbersome and allows violations to continue pending an appeal.

Water: Report of the State Water Resources Control Board and the Regional Water Quality Control Boards

This report describes the numerous water protection laws enforced at the state and regional levels and details the enforcement activity taking place in the five "core regulatory Programs" as well as several other critical programs. The report also candidly describes enforcement inconsistencies between the nine regions and that their efforts to improve performance are hampered by inconsistent and incompatible data. The Water Board's list of 13 recommendations shows a commitment to improvement that is underscored by their expressed intent to integrate evolving enforcement reporting into their strategic planning process.

In the future, we look forward to receiving reports on enforcement activities in programs outside the five core regulatory areas. This effort will help to provide readers with information useful to assess and make improvements in those program areas.

Risk Assessment: Office of Environmental Health Hazard Assessment

This report is included only for informational purposes so the reader can understand that although Office of Environmental Health Hazard Assessment (OEHHA) is a Cal/EPA Agency, it has no conventional government enforcement responsibility. The report details the support OEHHA provides to the Attorney General's Office in enforcement litigation related to "Proposition 65," the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections 25180-25249.13.

THE OFFICE OF THE SECRETARY

As referred to in the above Introduction to the 2007 Consolidated Environmental Law Enforcement Report, this Office of the Secretary Report reflects the many statutory enforcement activities for which the Office is responsible. Readers should know that most of the activities of the Office of the Secretary involve assisting and coordinating with other agencies to help them perform better enforcement as opposed to the Office actually administering the enforcement programs itself. In nearly every case, these other agencies and not Cal/EPA are the primary program enforcement authorities. There is, however, one exception to this assistance and coordination role in that, pursuant to statute, this Office does directly administer the local agency program that enforces certain hazardous material and hazardous waste laws in California. That substantive report is located in The Unified Program section of the 2007 Consolidated Environmental Law Enforcement Report and not in this Office of the Secretary report.

I. EXECUTIVE SUMMARY

Government Code section 12812.2(a) establishes the duties of the California Environmental Protection Agency (Cal/EPA) Deputy Secretary for Law Enforcement and Counsel to include the development of a program to ensure that Cal/EPA, its entities, and local government take consistent, effective, and coordinated enforcement actions. The program is required to include training of inspection personnel to ensure consistent, effective, and coordinated enforcement.

This section of the report provides an update on actions taken during 2007 to implement this section.

A) Major Program Highlights

The following highlight some of the more important enforcement improvement activities that were accomplished by the Office of the Secretary in 2007:

- Established a standing Cal/EPA Enforcement Steering Committee responsible for coordination of enforcement in all Cal/EPA programs and consisting of executive managers from each of the Cal/EPA programs and chaired by the Deputy Secretary for Law Enforcement and Counsel.
- Established a standing Cal/EPA Enforcement Program Operational Plan Steering Committee to plan and manage the continuing improvements and coordination of California's environmental enforcement programs.
- Established the Cal/EPA Enforceable Permits Steering Committee to develop and implement a system within Cal/EPA to assure environmental permits are clear, coordinated, consistent and enforceable.
- Established a Cal/EPA Enforcement Training Steering Committee to oversee, develop and implement a Cal/EPA centralized Enforcement Training program.
- Established a Cal/EPA Single Complaint Tracking System for Environmental Complaints. This system will receive, track and respond to environmental complaints reported to Cal/EPA and its BDOs.
- Established the Standardized Environmental Information Data Dictionary for environmental data and the Cal/EPA Environmental Data Exchange Steering Committee. This steering committee will

foster the ability of all environmental regulatory programs to retrieve and share information necessary to protect public health and the environment.

- Obtained grant funding to improve and enhance a web-based complaint reporting system that includes a complaint triage process, a complaint coordination protocol, complaint coordination infrastructure, the inclusion of all BDOs and local and regional governments, and dedicated future funding to improve the technology of the system.
- Enhanced and improved a multi-program, multi-BDO facility database and report system that for the first time makes regulatory information from 17 different databases available to BDO enforcement staff to provide a more complete report of a facility's environmental regulatory compliance. This tool also has dedicated future funding to improve the technology and the information display capabilities.
- Developed the structure, process and plan to produce this enhanced annual report of Statewide environmental enforcement.
- Provided enhanced training delivery through a number of collaborative efforts that enabled over 1700 people to receive training in 2007.
- Provided over \$250,000 to other agencies to develop and present enforcement training for regulators, investigators and prosecutors.
- Funded 45 individual training scholarships to enable regulatory personnel to attend necessary training sessions.
- Provided additional funding for enforcement experts to deliver training at various sessions and videotaping of enforcement classes and production of training CDs to enable staff training beyond each session.
- Facilitated prosecution of environmental violations through the Environmental Circuit Prosecutor Project which opened 173 environmental civil and criminal cases, closed 68 cases, imposed \$1,205,470 in fines, penalties, costs and additional relief, 80 days of jail time and 27 years of probation.
- Provided legal review to ensure the effective enforcement of the California Global Warming Solutions Act of 2006 (AB 32).
- Began to review and assist in the successful adoption and implementation of the California Environmental Education Initiative (EEI). EEI is designed to help public school students understand the environment and the negative environmental impacts that violations of law can have. Its successful implementation may ultimately lead to more knowledgeable citizens who will comply with the law and can help law enforcers more quickly identify environmental violations in order that appropriate law enforcement action can take place.

B) What The Reported Data Tells Us

The Office of the Secretary in its enforcement role does not implement a regulatory program; rather its statutory duties are to oversee and assure environmental protection regulatory programs are implemented in a coordinated and consistent manner. Data standardization, collection and analysis are critical elements of these mandated responsibilities. While progress has been made, it's clear that many data gaps still exist. In some cases, the requirement to report necessary data does not exist. In many cases the technical resources and funding needed to build and maintain the necessary databases are severely limited. Compounding problems include the lack of common data definitions among the many diverse elements of our decentralized regulatory system and the ability to efficiently share data across

program lines. These and related issues create “blind spots” that impact our ability to assess program effectiveness, identify trends and report environmental progress.

Cal/EPA’s initial enforcement assessment in 2004 identified many of these issues that are being addressed by two Enforcement Initiative Committees: the Data Standardization and the Environmental Data Exchange Committees. Reports on their progress and on-going work are included below.

C) How The Agency Will Use This Information

As the available data from the Boards, Departments, local and regional agency partners improves, Cal/EPA will be able to use that data to both measure progress toward implementing its statutory mandates and for planning and targeting purposes.

II. THE ENFORCEMENT PROGRAM IN THE OFFICE OF THE SECRETARY

A) Overview

In 2007, the staff available to work on the enforcement program within the Office of the Secretary consisted of:

- The Deputy Secretary for Law Enforcement and Counsel (whose duties include both the statutory duties regarding enforcement and the duties of General Counsel for the Agency).
- The Assistant General Counsel for Enforcement supported by three support staff (Executive Assistant, Staff Services Analyst and an Associate Government Program Analyst) whose duties included enforcement and support of the general legal office function.
- The Special Counsel to the Secretary.
- The Assistant Secretary for the Unified Program and Regulatory Affairs, supported by a staff of seven.

As described in this report, the enforcement program relies heavily on staff from the Boards and Departments to perform most of the tasks needed to improve enforcement.

B) Description of Program Components

Cal/EPA’s program to ensure consistent, effective, and coordinated enforcement actions has several components which are discussed below:

- Enforcement policy review and coordination of state and regional efforts to ensure enforceability of the Global Warming Solutions Act of 2006 (AB 32).
- Targeted program and infrastructure improvement tasked to Enforcement Initiative Teams/Committees.
- Enforcement training for regulators, investigators and prosecutors.
- The Environmental Circuit Prosecutor Project to address the need for prosecutorial resources in rural counties.
- Securing funding for enforcement and training through conventional and creative funding mechanisms such as the Penal Code section 14300 account.
- Environmental enforcement task forces to facilitate communication between regulators in various programs and prosecutors.

1) The Cal/EPA Enforcement Initiative

In October 2004, Cal/EPA directed the first steps to implement Cal/EPA's "Enforcement Initiative." Teams were established to carry out specific enforcement improvement tasks. Details about the teams are available on the Internet at <http://www.calepa.ca.gov/Enforcement/Initiative/default.htm>.

In 2007, Secretary Linda Adams signed several policy documents instituting recommendations from the Enforcement Initiative Teams and directing resources to support several Cal/EPA Enforcement Steering Committees that are continuing the work begun by these teams. For example, each Board and Department within Cal/EPA has dedicated an employee to work on the Cal/EPA Enforcement Training Steering Committee to develop and provide cross media enforcement training.

Enforcement Initiative Steering Committees have continued progress in assigned areas of responsibility through 2007. Each Team's mission, accomplishments and planned 2008 efforts are described below. Additional recommendations and system improvements are expected in 2008 and will be reported in the 2008 Enforcement Report.

Enforcement Steering Committee

Mission

The mission of the Cal/EPA Enforcement Steering Committee is to plan and manage the continuing improvement and coordination of California's state, regional and local environmental enforcement programs so we can effectively and efficiently meet the state's environmental goals.

Accomplishments

This Steering Committee consists of the Chiefs of Enforcement for the Air Resources Board, the California Integrated Waste Management Board, the Department of Pesticide Regulation, the Department of Toxic Substances Control, and the State Water Resources Control Board. The Committee is chaired by the Cal/EPA Deputy Secretary of Law Enforcement and Counsel.

This Committee was formed in 2007 and began to oversee the work of the other Cal/EPA Enforcement Steering Committees and improve the coordination between the enforcement activities of the various environmental regulatory programs. During this period, the Steering Committee also worked with the federal government agency, US EPA, and California's county prosecutors represented by the California District Attorneys Association to improve California's environmental crimes enforcement activities.

Calendar Year 2008 Objectives

This Committee will continue to work to see the Cal/EPA standing enforcement steering committees complete the work the steering committees have started and will continue to work to improve coordination between the Cal/EPA Boards, Department and Offices regulatory programs as well as the US EPA, our local and regional partners and the California District Attorneys Association.

Enforcement Program Operational Plan (EPOP) Steering Committee

Mission

The mission of this Committee is to complete development and implementation of a model drafted by the EPOP Team for use by each BDO and our local regulatory partners. This model will define the common and necessary elements of a fully functioning environmental enforcement program and serves as the Cal/EPA blueprint for advancing our enforcement programs and prioritizing our enforcement resources.

Accomplishments

The EPOP Team completed development of a draft Enforcement Program Operations Plan Model. This model describes most of those core elements, basic philosophies and structures of a comprehensive and fully functioning environmental regulatory program. However, the team intentionally deferred some key elements to other existing enforcement initiative teams rather than duplicate efforts. Products produced by those teams were intended to fit into an appropriate chapter or segment of the model. Examples include: training, permit improvement, complaint response, and data. Some of those are still being developed, and some are pending policy decisions.

While the team made substantial progress, it was also constrained by existing program-specific statutes, regulations, policies and philosophies. These limited to some extent, the scope and magnitude of the model.

For these and other reasons, the current model is considered a draft and the basis for continued development.

Calendar Year 2008 Objectives

Refine and complete development of the Enforcement Program Operational Model.

Develop a process and format for regulatory program self-evaluations and identification of changes deemed necessary and appropriate for greater conformity with the Model.

Establish a system to track progress in achieving necessary administrative, fiscal and legislative improvements.

Data Standards Steering Committee

Mission

The mission of the Data Standards Steering Committee is to maintain a master Cal/EPA-wide data dictionary that consists of all data elements of interest, both included in the Title 27 data dictionary and not included in the Title 27 data dictionary. This committee will coordinate the continuing development of data standards across Cal/EPA's BDOs and establish a data dictionary management process. The committee will work with BDOs to implement the standards and process.

Accomplishments

This committee's accomplishments have included the finalization of the Data Standards Steering Committee Charter. It has established work groups to establish the rules, data dictionary content, communications plan, data dictionary management process. The work groups' accomplishments include:

- The rules work group drafted the rules governing the DSSC. The DSSC adopted the rules.
- The data dictionary content work group identified and set the meta-data elements which will be captured for each data element in the data dictionary. The DSSC approved the data dictionary content.
- The communications work group initiated a marketing plan assessment.
- The data dictionary management work group developed the business process flow and the process for making modifications to data elements within the data dictionary. The DSSC approved the business process flow.

- The change management work group (data dictionary request and update mechanics – DDRUM) defined the functional requirements for the data dictionary system, identified the resources required to establish the system which will house the data dictionary and has started identifying the process for mapping the data elements in the Environmental Data Exchange (EDE) systems.

Calendar Year 2008 Objectives

- Review and update the DSSC work plan for 2008 (completed).
- Confirm availability and commit resources to build the data dictionary system (in progress).
- Initiate master data dictionary development efforts.
- Complete development of Phase 1 of the master data dictionary.
- Finalize process for mapping EDE data elements (in progress).
- Test mapping process on selected EDE systems (in progress).¹
- Update membership list and increase member participation.

Environmental Data Exchange Steering Committee

Mission

The Environmental Data Exchange Steering Committee's mission is to implement data standards and business rules across BDO facilities databases to ensure consistency of data and ease of cross-organizational exchanges. The resulting goal is to create a cross-BDO database of regulated facilities and sites of environmental interest. Further, the team is to determine an unambiguous method of identifying these facilities and sites and exchange information about them in order to promote cross-media and multi-agency enforcement capabilities.

Accomplishments

The Committee was established in 2007 and began to build on the work completed by the previous scoping team, which created the first-ever cross-BDO database of regulated facilities/sites of environmental interest. This cross-BDO database of regulated facilities was created by interfacing 12 of Cal/EPA BDOs major environmental data bases. Since being formed, the Committee has automated the process to get nightly updates for most of the now 17 databases that contribute to the shared Cal/EPA facilities database. The database includes limited information: name, address, latitude/longitude, Federal Registry System number. The team is working to maximize the use of the US EPA Facility Registration (FRS) numbers for those facilities or sites of Federal government interest, and then giving a California FRS number to those facilities that are not of Federal interest.

The database uses GIS capabilities to map individual locations upon request and show the cross-BDO facilities within geographic areas.

This is currently an internal-use only database.

Calendar Year 2008 Objectives

In 2008, the team plans to increase the data fields to include permitting and enforcement information. They plan to make the database available to other regulatory agencies.

¹ Initial effort on data mapping highlighted many issues. Establishing more frequent meetings to define and evaluate pilot effort.

Enforcement Performance Measures Team

Mission

Develop enforcement program performance measures that relate program activities of Cal/EPA BDOs, and our local and regional partners to progress in achievement of program strategic plans. Develop a comprehensive annual report of environmental enforcement in all BDO programs and those implemented by our regional and local partners to meet the requirement of Government Code, Section 12812.2.

Accomplishments

Four common categories of measurements were agreed upon to help focus development efforts:

1. Compliance rates, 2. Deterrence, 3. Recidivism Rates and 4. Societal Benefit.

Initial work produced a standard chart for each program to use in tracking and reporting compliance rates in their regulated community.

Subsequent team efforts in 2007 were focused on development of a comprehensive calendar year 2007 report of environmental enforcement activities of Cal/EPA BDOs and our local partners. The report outline, format and initial program drafts were developed.

Calendar Year 2008 Objectives

Complete and post the report of California's Environmental Enforcement activities in 2007.

Begin development of a 2008 enforcement report that builds on the lessons learned in the 2007 effort and further enhances understanding and utility of reported information.

Continue development of common performance measures that can be used across programs to better measure program progress, and inform policy decisions.

Enforceable Permits Steering Committee

The Enforceable Permits Steering Committee was established in 2007 and is building on the work of the prior permits team, which investigated concerns that the enforceability of permits issued by Cal/EPA boards and departments needed to be improved. This team investigated this concern and developed a staff survey in 2006. Using results of the survey, a report was developed which discussed the survey, its results and provided recommendations for addressing the problems reported in the survey.

One of the fundamental recommendations from the survey was that a cross-BDO steering committee be established. This committee would include representatives of both enforcement and permitting programs from the BDOs.

Accomplishments

The Enforceable Permits Steering Committee finished the report of the staff survey in 2006. In 2007, a briefing was conducted for the enforcement chiefs of the BDOs and for the Secretary of Cal/EPA. At the conclusion of the briefing, the team developed a policy document, which established the Enforceable Permits Steering Committee in November of 2007.

This new steering committee expanded the role of the prior team that was working on the enforceability of permits in that it required membership and participation by both the Cal/EPA enforcement and

permitting community. Because these two functions are for the most part organizationally separate, it requires that each BDO and program provide both a representative from their enforcement program and a representative from their permitting program.

Calendar Year 2008 Objectives

The Enforceable Permits Steering Committee will be activated in 2008. Members will be solicited from the BDOs. The Committee charter will be finalized; an action plan will be developed and implemented for the Committee. It is anticipated that specific projects will be identified in the action plan, and these will be started in 2008.

Enforcement Training Steering Committee

Mission

The Enforcement Training Steering Committee key charter element consists of the implementation of the Cal/EPA Enforcement Training Policy; the development of a centralized Cross-Media Enforcement Training Program; and the administration of this centralized Cross-Media Enforcement Training Program.

Accomplishments

The Enforcement Training Team accomplishments include the establishment of a list of core courses as the basic suggested requirement for new field inspectors from all Cal/EPA BDOs. A centralized calendar was established for all BDOs to post their training classes on the Cal/EPA website to facilitate participation by other programs. An ARB training room enables all future BDO training classes to be webcasted.

In addition, a training team has been formed with five members, one from each Cal/EPA BDO. This training team is responsible for Cross-Media Training and training within its own media. An on-line learning program for portions of the Basic Inspector Academy curriculum has been established.

Calendar Year 2008 Objectives

For the next year, the Enforcement Training Steering Committee plans to continue to develop distance learning programs for the rest of the Basic Inspector Academy. The training team will separate and certify both the distance learning program and the in classroom learning program for the Basic Inspector Academy. The number of Basic Inspector Academy training will be increased from three per year to six course offerings to meet the demand due to increase in hiring of new inspectors.

The training team will use existing databases to track the training progress of the new enforcement staff. Also, the effort in outreach and coordination of training classes for various task forces will be increased. Each member of the BDO training team will conduct training twice a month in their own media; in addition, each member will be responsible for specific tasks in Cross-Media training. Finally, the training team will conduct a survey of other training programs available to avoid duplication of training efforts.

Single Complaint Tracking Steering Committee

Mission

The Single Complaint Tracking Steering Committee was established to create a Cal/EPA-wide, single complaint tracking system to receive, track, and respond to environmental complaints reported to Cal/EPA and/or its BDOs. The first phase of the project resulted in a web-based system that currently

provides a consistent, single point of contact for the public and others via Internet access through the various Cal/EPA and BDO web pages. The primary point of contact is an online complaint form that is used to collect information about environmental complaints and/or violations. Over the past several months the system has been tested and enhanced and now functions as a tool used to relay complaint information directly to the appropriate BDOs for action and follow-up.

The 2004 Cal/EPA self-assessment affirmed that citizen complaints were a critical source of information about potential non-compliance with environmental laws. Program managers also found that citizen complaints were usually made to a specific BDO, but may also have cross-media environmental impacts. In order to provide adequate response to environmental complaints, a coordinated approach was clearly needed to address the possible cross-media responses as well as assure that complaints were investigated and prosecuted properly.

Accomplishments

In May 2007, the Single Complaint Tracking Steering Committee was established to build on the work of the previous team and began to improve the Cal/EPA complaint tracking system. The Committee also began development of a uniform, web-based tracking system that could be used by Cal/EPA enforcement staff to record new, incoming complaints at individual BDO locations, as well as track and record investigative results related to those complaints.

With the assistance of DTSC's software programming staff, the team improved the online Cal/EPA complaint form on Cal/EPA web pages, which were originally placed on the Internet on January 11, 2006. All BDOs now have a "File an Environmental Complaint" graphic button on their web pages that directs complainants to a central online complaint form (This also includes all of the Regional Water Quality Control Boards.). The new online complaint form and system provides easy public access to the Cal/EPA enforcement staff who directly handle environmental complaints.

Committee members continue to work with DTSC programmers to define and develop the remaining internal complaint tracking components and secured user access elements of the new system. These components will provide the tracking accountability for managing the follow-up response to the incoming online complaints.

The Committee established an informal complaint coordination protocol and developed an informal complaint coordination infrastructure among the BDOs. To get to this point with the project, the team also:

- evaluated existing BDO complaint intake and tracking systems;
- tested complaint forms and information requirements needed by BDO enforcement programs to adequately respond to complaints; and,
- defined data requirements that are consistent with the Cal/EPA-wide data dictionary.

Calendar Year 2008 Objectives

In 2008, the Steering Committee will be working with each BDO to establish internal staff guidance for using the Cal/EPA online complaint system, and submitting complaint information via the online system.

Further enhancements of the online system are planned and include a secured access feature along with development of basic data management reports generated from the complaint tracking system. Among other things, these reports will: 1) display data identifying when a complaint has been investigated or

referred to another jurisdiction, 2) provide complaint contact information within each BDO for investigators, and 3) provide complaint workload management tools and reports. The basic management reports will be an essential tool necessary to ensure that complaints are investigated and tracked properly and do not disappear from the enforcement radar screen.

Lastly, BDO staff remains challenged by the coordination aspects of complaint investigation when multiple BDO jurisdictions are involved. In order to resolve the challenge and achieve better cross-BDO investigation, the Steering Committee will be working to develop and establish coordinated Cal/EPA enforcement protocols. The team will evaluate processes and options to improve multiple BDO complaint coordination and present recommendations to the Cal/EPA enforcement managers for resolution. The desired result will leverage and maximize Cal/EPA's complaint investigation resources.

2) Enforcement Training

One crucial role Cal/EPA plays in California's diverse and decentralized network of enforcement is coordination and support of training of enforcement personnel. Environmental laws and regulations are very technical and require special expertise to enforce. Basic and continuing education for environmental regulatory professionals are key. Enforcement requires additional skill sets, such as cross media violations awareness, report writing, investigation, and case development.

Cal/EPA coordinates enforcement training with the California District Attorneys Association, the California Hazardous Materials Investigators Association, the California CUPA Forum Board, the Western States Project (a U.S. EPA-funded training entity) and the Peace Officers Standards Training Commission (POST). Enforcement training information is on the web at: www.calepa.ca.gov/Enforcement/Training.

Specific enforcement training is described below. Cal/EPA continues to fund several of these enforcement training events using money from settlements of enforcement actions in which a portion of the settlement funds were specifically designated for use for enforcement training. These funds were the source of the enforcement scholarships referred to in this report.

The Cal/EPA Basic Inspector Academy

The Academy provides baseline knowledge of environmental enforcement and works in conjunction with existing program specific training to prepare state and local environmental regulatory staff to conduct efficient and professional inspections. Training includes overviews of all environmental regulatory programs. Students learn to recognize cross media violations and to work with their partner agencies. Six hours of this training are available online at www.calepa.ca.gov/enforcement. The complete Academy course includes both the online module and 4 days of classroom training. The classroom sessions include a simulated inspection, report writing, case review by prosecutors and mock testimony. In 2007, the Academy was offered in Sacramento and Los Angeles; 86 people completed the course. Staff support for this training was provided by the Air Resources Board.

The Cal/EPA Cross Media Environmental Enforcement Symposium

This annual four day advanced training event is open to government, industry, and members of the public. Training sessions cover enforcement issues from each of Cal/EPA's Boards and Departments. Real and mock case studies are presented to illustrate current enforcement topics. Cross program, cross media violations and investigations are emphasized. Topics in 2007 included global warming litigation and enforcement issues, data fraud, electronic evidence, sting operations, and surveillance tips. Mock testimony is provided and each attendee sits on a jury panel that deliberates an enforcement case. The

Symposium is certified for Continuing Education Credits and for Mandatory Continuing Legal Education. One Hundred Seventy Two (172) individuals attended the Symposium in 2007, including representatives from business, federal, state, tribal, and local government. Using enforcement scholarships, Cal/EPA paid for speaker travel costs and for registration and/or travel costs for 42 staff from state and local environmental regulatory programs. Staff support for this training is provided by the Air Resources Board. For more information, see: www.arb.ca.gov/training/enfsym.htm.

The Tenth Annual Unified Program/Underground Storage Tank Training Conference

The Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program) consolidates permits, inspections, and enforcement activities for six hazardous materials, hazardous waste, and emergency management programs within 84 Certified Unified Program Agencies (CUPAs). The annual training conference has over 1,200 attendees. Sixty technical sessions are presented in six different “tracks.” Cal/EPA works with the CUPA Forum Board to present this annual training conference and coordinates the enforcement track of sessions. In 2007, the enforcement track included multi-county investigations, gathering, and presenting evidence and effective interview techniques. Cal/EPA paid for travel costs for speakers on enforcement subjects. Cal/EPA paid for enforcement track classes to be recorded and transferred to compact disks that show both video of the speaker and the Power Point presentation on the same screen. Cal/EPA worked with the CUPA Forum Board to establish a web based portal where these taped trainings can be viewed online:

http://www.calcupa.net/training/training_video_library.asp.

Other Enforcement Training

The Department of Toxic Substances Control, Task Force Support Branch partnered with Cal/EPA and the California Hazardous Materials Investigators Association to bring enforcement training to several local task forces in 2007. This training included case development skills, report writing, and sampling.

Cal/EPA provided scholarships for state and local environmental enforcement staff to attend training given by the Western States Project, a US EPA funded non-profit that provides environmental enforcement training to states in the western region of the country:

- 99 attended the three-day “Introduction to Environmental Enforcement”
- 14 attended the three-day “Introduction to Environmental Criminal Investigation,” of whom eight received Cal/EPA scholarships
- Two attended the three-day ‘Introduction to Environmental Enforcement for Attorneys’
- 150 attended three – one-day classes on “Interviewing for Inspectors

3) The Environmental Circuit Prosecutor Project

The Environmental Circuit Prosecutor Project is a cooperative project of Cal/EPA and the California District Attorneys Association as provided for in California Penal Code section 14309. The Project fills the gap in the enforcement of environmental laws in California’s small counties by providing environmental prosecutors to District Attorneys in rural areas. Circuit Prosecutors are hired by the California District Attorneys Association and then made available to be deputized by rural county District Attorneys to handle civil and/or criminal environmental cases. One Circuit Prosecutor may work in as many as 10 different counties. Their cases run the gamut of various environmental programs but the majority of cases involved water quality including streambed alteration and sediment discharges, hazardous waste and hazardous materials and illegal dumping. In addition to handling cases, Circuit Prosecutors assist local enforcement task forces and provide training.

In 2007, the Project opened 173 environmental civil and criminal cases, closed 68 cases, obtained \$1,205,470 in fines, penalties, costs and additional relief, 80 days of jail time and 27 years of probation. These numbers are significantly lower than the statistics for 2006 due to unstable funding of the project, staff turnover and staff reduction. In 2007, the Project closed less than half the number of cases it closed in 2006 and obtained 1/10th the amount of jail time. In 2005, the Project had six full time prosecutors; in 2007, it had three full time prosecutors. For more information on the Project, see <http://www.calepa.ca.gov/Enforcement/CircuitPros/>.

4) The Penal Code Section 14300 Environmental Enforcement and Training Act

The legislation that created this Act was the product of a Cal/EPA-chaired stakeholder group that was charged with the task of finding alternative means of supplemental funding for environmental enforcement and training. This Act provides a method for the distribution of grant funds for enforcement, enforcement training, and the Environmental Circuit Prosecutor Project. Funding for the account comes from money designated for such use in civil or administrative judgments in enforcement cases. These contributions are often referred to as Supplemental Environmental Projects or “SEPs.” No General Fund money is used in this account. Cal/EPA manages this account and annually issues the grants.

A total of \$503,562 was distributed in 2007, from cases settled by the Department of Toxic Substances Control and by local District Attorneys. The amount contributed to the fund in 2007 was lower than the \$654,081 received in and distributed in 2006 and the \$1,018,061 received and distributed in 2005. The funds were apportioned as required by statute:

- 25 percent (\$125,890) to the Environmental Circuit Prosecutor Project
- 25 percent (\$125,890) to the California District Attorneys Association for enforcement training for investigators, regulators and prosecutors
- \$100,000 to Commission on Peace Officer Standards and Training (POST) for environmental investigation training
- Remainder (\$151,780) to Cal/EPA to be awarded as grants for training and enforcement

Cal/EPA awarded grants for \$151,780 as follows:

- The California District Attorneys Association received \$104,781 additional funds to support the Circuit Prosecutor Project.
- The Air Resources Board received \$21,000 to pay for equipment and other expenses related to the Cal/EPA Cross Media Enforcement Symposium.

A grant was awarded to the City of Los Angeles Department of Public Works, Bureau of Street Services, Investigation and Enforcement Division for \$14,000 to develop a new Environmental Law Enforcement Training Program designed for illegal dumping personnel and to purchase associated equipment.

The City of Victorville Department of Building and Safety, Code Enforcement Division received a grant for \$12,000 to develop a project to focus code enforcement officers on the investigation of illegally disposed trash and to train code enforcement officers on investigation techniques of environmental crimes.

For more information on the Penal Code section 14300 fund, see: <http://www.calepa.ca.gov/Enforcement/Grants/2007/14300>.

5) Supporting Environmental Enforcement Task Forces

Since its inception, Cal/EPA has been encouraging the creation and support of task forces dedicated to the deterrence, detection, investigation, and prosecution of environmental violations. Environmental enforcement task forces are comprised of voluntarily participating federal, state, and local agencies with enforcement authority. The members of these task forces generally include local, state or federal prosecutors, local, state, and federal law enforcement agencies (Sheriff, Fish and Game wardens, California Highway Patrol, Federal Bureau of Investigation, U.S. EPA Criminal Investigation Division, etc.), investigators and technical experts from Cal/EPA's Boards and Departments, and local environmental agencies (local hazardous material control programs, air pollution control districts, sanitation departments, etc.). Task forces facilitate the pooling and exchange of resources and intelligence between different law enforcement and regulatory entities. These cooperative partnerships allow task force member agencies to pursue investigations that they would not be able to complete alone.

The Cal/EPA Department of Toxic Substances Control (DTSC) Task Force Investigations Support Branch was reorganized and became part of the Criminal Investigations Branch at DTSC. Staff is located in Sacramento, Glendale, and Berkeley. This group supports environmental enforcement task forces. They work closely with local, state, and federal environmental regulatory agencies, investigators, and prosecutors to coordinate environmental enforcement.

DTSC staff provides training in various investigative techniques; sampling and investigative expertise, equipment, and laboratory services; conveys complaints and makes referrals to local task force agencies and helps coordinate multi-agency investigations of environmental violations. The work of DTSC task force support staff has improved the abilities of regulatory agencies to respond to complaints and environmental crimes, to prosecute complex and difficult cases, to react quickly to environmental emergencies, and to coordinate activities between agencies.

Almost every county in California is covered by a local environmental enforcement task force. In addition, there are some regional and/or single subject task forces. For more information, see: <http://www.calepa.ca.gov/Enforcement/TaskForce/>.

The Cal/EPA Office of the Secretary chairs the State Environmental Enforcement Task Force, which meets monthly. Attendees include representatives from enforcement programs from Cal/EPA Boards and Departments, enforcement liaison attorneys from the Cal/EPA Boards and Departments, the Department of Fish & Game, the California District Attorneys Association, Assistant U.S. Attorneys, Deputy Attorneys General, U.S. EPA Criminal Investigation Division, and the federal Bureau of Land Management. The purpose of these meetings is to go over current major cases, discuss enforcement program administrative issues (new regulations, legislation, and budgets), address needs for joint investigations, enforcement training, and enforcement projects including the Environmental Circuit Prosecutor Project, and discuss issues affecting local agency partners.

The Cal/EPA Office of the Secretary participates in the Border Environmental Enforcement Task Force, a group of federal, state, and local officials that meet quarterly in the Mexico/California border area to discuss border-related environmental enforcement issues; and the Border 2012 California/Baja Waste and Enforcement Task Force, which includes Mexican environmental enforcement officials.

Cal/EPA also participates in the Western States Project; a U.S. EPA-funded non-profit organization that provides environmental enforcement resources, networking and training to the western United States. For more information, see <http://www.regionalassociations.org/>.

6) Cal/EPA Assistance on Investigation and Enforcement Actions

Cal/EPA has institutionalized the cross media model of investigation and enforcement. Cal/EPA's enforcement training is focused on the cross media model. The Cal/EPA Basic Inspector Academy trains inspectors to recognize enforcement issues outside of their own programs and on how to create cross media teams. The annual Cal/EPA Cross Media Enforcement Symposium highlights accomplishments in this area and teaches this model to regulators, investigators, and attorneys. This training is brought to reality by the task forces described above, where inspectors and others can request assistance with enforcement investigations. Cross media enforcement is a regular part of environmental enforcement in California; every day regulators and investigators "make the call" to another agency about violations requiring this approach.

Pursuant to a Memorandum of Understanding between the Air Resources Board and Cal/EPA, the Strategic Enforcement Investigations (SEI) unit at Air Resources Board has been designated as Cal/EPA's cross media enforcement unit in accordance with Government Code section 12812.2. The Department of Toxic Substances Control also provides enforcement assistance through its Criminal Investigations Branch (CIB). Both SEI and CIB assist federal, state, regional, and local agencies with enforcement resources and case development. Other Cal/EPA Boards, Departments, regional and local agency partners provide enforcement and case development assistance on a case-by-case basis.

SEI has surveillance equipment and staff to assist state, regional and local agencies in investigations of environmental crimes. Video evidence is a highly effective tool in environmental crime enforcement and its use by state and local agencies continues to grow. The use of remote surveillance is particularly effective in illegal dumping problem areas.

SEI staff made a presentation at the 2007 Cal/EPA Environmental Cross Media Enforcement Symposium on remote surveillance technologies and equipment. The presentation included case studies covering many different areas of environmental enforcement, and how to properly utilized remote surveillance.

7) Case Coordination and Referral

During 2007, Cal/EPA continued to assist and coordinate regulators, investigators, and prosecutors in investigations of violations of environmental laws. Cal/EPA meets with US EPA Region 9 enforcement officials regularly to discuss federal enforcement activity and to coordinate joint state and federal investigations and prosecutions.

California has seen an increase in the number of multi-county and statewide civil cases brought to enforce environmental laws. These cases require close cooperation between the regulators in various jurisdictions and the local and state prosecutors. Cal/EPA has assisted this effort by providing training on this subject at the Cal/EPA Enforcement Symposium and the CUPA/UST Training Conference. Complaints and judgments from multi county and state actions are posted on Cal/EPA's web pages at <http://www.calepa.ca.gov/Enforcement/Orders/>.

C) Enforcement Program Metrics

The Office of the Secretary in its enforcement role does not implement a regulatory program; rather its statutory duties are to coordinate existing enforcement efforts. Therefore, Cal/EPA does not have its own reported data but rather relies on the data generated by the BDOs and local agencies. The Office of the Secretary has led efforts to improve the data generated by these programs, see reports under the Enforcement Initiative and the Unified Program report.

D) Program Limitations

Similar to other programs described in this report, the Office of the Secretary functions with limited enforcement resources. Currently there is no dedicated funding for equipment or contracts and most staff also have multiple additional non-enforcement responsibilities. Our statutory responsibility to promote consistent and effective enforcement across environmental programs is made more difficult by the significant differences in program statutory construction, differing and sometimes limited enforcement authorities, program structures and reporting responsibilities.

While coordination and consistency among the many diverse elements of our decentralized environmental enforcement system are continually improving, each individual program's primary focus on a single environmental media (e.g., air, water, waste etc.) remains largely driven by program structure, legal responsibilities, funding constraints, Federal oversight and similar issues. Each program's narrow focus on a single environmental media can create at least the appearance, if not the reality of overlapping or conflicting regulatory demands on regulated businesses that are commonly regulated under several different programs. Without continual vigilance, this limited focus can also cause environmental risks to move from one program media to another in conflict with the more global environmental protection goals we all seek.

Finally, the significant data challenges noted elsewhere in the report remain a limitation.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

A) Objectives for 2008

- Continue the work on infrastructure improvements tasked to Enforcement Initiative Teams and Committees.
- Produce a comprehensive Report on Environmental Enforcement for the year 2007.
- Continue support for enforcement training for regulators, investigators and prosecutors.
- Expand the funding sources for the Environmental Circuit Prosecutor Project to address the need for prosecutorial resources in rural counties.
- Expand the funding sources to contribute to Penal Code section 14300 account.
- Provide support for environmental enforcement task forces to facilitate communication between regulators in various programs and prosecutors.

B) Recommendations for Future Actions

- Work with the Air Resources Board and other regulatory stakeholders to review enforcement issues in the development of regulations to implement the Global Warming Solutions Act of 2006 (AB 32 (2006); Health and Safety Code sections 38500 et seq).

- Work to coordinate the various providers of environmental enforcement training.
- Produce an annual comprehensive Report on Environmental Enforcement.

AIR RESOURCES BOARD

I. EXECUTIVE SUMMARY

Air pollution sources come in all shapes and sizes: from diesel “big rigs” to tricked-out motorcycles; from cargo ships to jet skis; from the particle board in the kitchen cabinets to the can of hair spray in the bathroom; from the railroad locomotive engine to the family car.

Cleaner fuel standards, vapor recovery systems, diesel-burning sources, consumer products, light-duty vehicles, small off-road engines, and a host of air toxic control measures all comprise the variety of programs the Air Resources Control Board (ARB) tackles in the fight for clean air. While the sources are diverse, common to each regulation is the basic tenet that we cannot reach our air quality goals unless every member of every industry plays by the rules.

Ideally, the industries that are faced with new or tighter regulations will comply voluntarily, and ARB offers outreach and compliance assistance programs to help. However, there is always some fraction of the regulated population that breaks the law. This not only postpones achieving cleaner air, but also punishes the complying companies, by providing an unfair economic advantage to the violators. ARB’s inspectors and investigators keep watch on those places where non-compliance is most likely, as well as in areas where the violating emissions have the greatest adverse impact on public health.

With each new regulation, the universe of inspection sites expands. In recent years, the Board’s Enforcement Division (ED) has accommodated an increasing number of critical responsibilities in all areas of the State. The enforcement program tests heavy-duty diesel vehicles for engine certification compliance, smoke emissions, and tampering, affecting the trucks that cross the Mexican border. It seeks out and intercepts imports of illegal vehicles, engines and consumer products at the state’s largest ports. It keeps diesel-powered school buses from idling too long, too close to children’s developing lungs. It gets the lowest-polluting fuel pumped into cars and trucks, and the highest level of particle controls installed on trash trucks. It is a big job, but if California is to keep moving toward its goal of clean, healthful air, it is an absolute necessity.

A) Major Program Highlights

The following statistics highlight the ARB’s Enforcement Program’s achievements in 2007:

- 3,442 cases/citations closed, a 73% increase from 2006;
- \$29,850,475 in total penalties collected;
- 50 diesel fleet cases closed for over \$3.1M;
- 12 illegal motorcycle and off highway recreational vehicle cases closed for over \$3.7M;
- Three illegal aftermarket performance parts cases closed for over \$1.2M;
- 44 Certificate of Non-compliance/49 state vehicle cases closed for over \$745,000;
- Three major stationary source cases closed for \$18.5M;
- 22 fuels cases closed for over \$574,000;
- More than 1900 cargo tanks inspected with 38 cases closed for \$23,500;
- More than 2,880 consumer product and portable fuel container samples gathered during inspections with 50 cases closed for over \$2M;
- More than 9,900 inspections in Environmental Justice areas conducted and 1,343 violations issued;
- More than 23,000 heavy-duty, commercial, and solid waste vehicles inspected for with over 2165 violations closed for over \$384,000;

- More than 19,000 inspections for red-dyed diesel fuel conducted;
- More than 1,900 inspections of locomotives conducted; 70 violations issued;
- More than 165 classes or multi-day training programs offered, representing over 8,150 student days of training;
- Over 15,300 publications distributed, and 77,400 web hits on handbooks alone;
- Enforcement of the AB 1009 Engine Emissions Certification Label/AB 1009 regulations at the California-Mexico border and statewide; and
- Enforcement of illegal Chinese knockoff imports.

B) What the Reported Data Tells Us

The reported data provides a measure of activity across all applicable enforcement programs at ARB. Due to the wide range of the regulations ARB enforces, each program generates a somewhat unique dataset and has its own measure of activity and performance.

C) How the Program Will Use This Information

This data helps division leadership measure enforcement activity levels, and look for ways to make effective use of limited resources. This information is especially helpful in the strategic planning and analysis arena, especially when new regulations are being proposed or implemented. It will also help ARB's enforcement management team to redirect staff to programs with low compliance rates and identify where additional resources and staff may be needed.

II. THE ARB'S ENFORCEMENT PROGRAM

A) Overview

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

ARB has been specifically directed to address the serious problems caused by mobile sources – cars, motorcycles, trucks and buses, off-road vehicles and equipment, and the fuels that power them – major sources of air pollution in the most populous parts of the state. ARB is also responsible statewide for controlling emissions from smaller but more numerous sources of air pollution, including consumer products, other types of mobile sources like lawn and garden equipment and utility engines, and, especially, any sources of toxic air pollutants.

To carry out these responsibilities, ARB has undertaken a multifaceted program of planning, regulation development, and enforcement. This is a complex process that weaves together air quality research, modeling and assessment; the development and adoption of regulations through a process that allows for public input; and program implementation through active outreach to regulators and regulated industries through training and compliance assistance.

The final component, enforcement, ensures that these efforts do achieve the anticipated emissions reductions and a level playing field for all participants. This report focuses on ARB's enforcement

efforts, both direct enforcement and oversight of district enforcement programs, and voluntary compliance through education and compliance assistance materials.

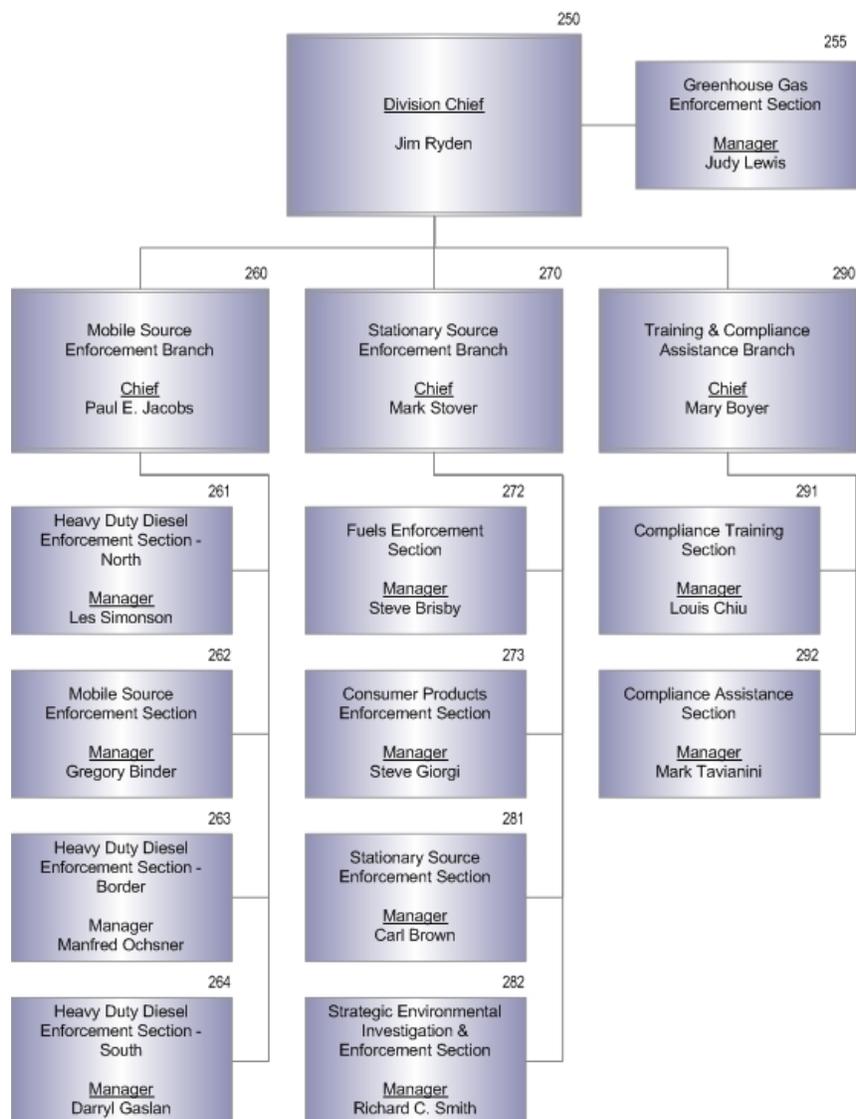
Violations of California's air quality laws and regulations span a wide spectrum that extends from nominal breaches of the state's statutes or regulations to deliberate, criminal actions. While varying degrees of pollution are created by way of these violations, what remains constant in each is the unfair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

“The Enforcement Division seeks to protect public health and provide safe, clean air to all Californians by reducing emissions of air contaminants through the fair, consistent and comprehensive enforcement of statutory and regulatory requirements.”

Organizational Structure

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

- The Mobile Source Enforcement Branch (MSEB) enforces programs to reduce gaseous, particulate, and visible exhaust emissions from heavy-duty diesel and gasoline-powered commercial trucks and buses, passenger vehicles and other light-duty on-road vehicles, off-highway vehicles, and non-road engines such as lawn and garden equipment and small utility engines. MSEB staff investigates alleged violations of these programs and develops administrative, civil, and criminal cases against violators. Violators face enforcement actions that carry significant penalties and are required to immediately come into compliance.
- The Stationary Source Enforcement Branch (SSEB) investigates and develops cases related to motor vehicle fuels and consumer products, provides oversight and assistance to local air district enforcement programs, and provides investigative and surveillance services to assist in the development of air quality, toxic exposure, and multi-media cases.
- The Training and Compliance Assistance Branch (TCAB) provides training and materials to ARB staff, air districts, and industry for improving enforcement and promoting compliance.



Finally, integral to the success of the enforcement program is the Enforcement Division's close working relationship with ARB's Office of Legal Affairs (OLA). Division staff develops the cases, many of them, directly between the Division and the violators, who come into compliance and pay appropriate civil penalties, are settled. For cases that cannot be handled through this informal process, OLA attorneys are brought in to work with the enforcement staff to negotiate settlements or prepare cases for referral for civil litigation or criminal prosecution to the California Office of the Attorney General, local District Attorneys, or the United States (US) Attorney's Office.

B) Enforcement Program Components

1) Mobile Source Enforcement Branch

Description

California has long been a world leader in combating air pollution emitted from motor vehicles and other mobile sources. Because of the state's severe air quality problem, California is the only state authorized under the Federal Clean Air Act to set its own mobile source emissions and fuels standards.

ARB has used this authority to establish an aggressive program to reduce emissions from many sources, ranging from heavy-duty diesel trucks, passenger cars, and motorcycles to jet skis, lawn mowers, and chain saws. Because of the complexity and diversity of its regulated universe, the Mobile Source Enforcement Branch is split into two broad enforcement program efforts: the general **Mobile Source Enforcement Program** and the **Heavy Duty Diesel Enforcement Program**.

Mobile Source Enforcement Program

The Mobile Source Enforcement Program is structured to ensure that on and off road vehicles and other applicable sources, such as small off-road engines, meet California's emission standards. This program includes:

- **On Road Program**
This program includes passenger vehicles, trucks, and motorcycles. The cornerstone of this program is the requirement that each new on-road vehicle sold in California must meet ARB emissions standards. Manufacturers and dealers offering vehicles for sale that do not meet these standards are subject to penalties up to \$5,000 per violation and the vehicles are removed from the state. These violating vehicles are captured through random audits of dealers and manufacturers, manufacturer audit reports and self reporting, informants and Smog Check Program inspections of vehicles being registered from other states in California for the first time. Staff has also been working closely with custom motorcycle and limousine dealers and manufacturers to curb non-compliance in these industry sectors.
- **Non-Road Program**
This program ensures that non-road vehicles and engines such as off-road motorcycles, all-terrain vehicles (ATVs)/off highway recreational vehicles (OHRVs), lawn and garden equipment, motorized scooters, generators, fork lifts, and construction equipment meet ARB certification requirements. Staff also supports the industry by assisting new manufacturers with the certification process.
- **Illegal Asian Import Market Program**
This is a cooperative program that deals with the illegal importation and sale of illegal engines and vehicles from Asia, primarily China. The ARB staff, working closely with the U.S. EPA, U.S. Immigration & Customs Enforcement, U.S. Coast Guard, Chinese governmental agencies and others, work tirelessly to ensure that Asian import products coming into California fully comply with applicable environmental regulations.
- **Marine Engine and Watercraft Enforcement Program**
Beginning in 2008, this program ensures compliance with ARB marine engine and watercraft labeling and certification requirements. Prior to 2008, the program staff conducted outreach with industry groups on various enforcement-related topics.
- **After-Market Parts Program**
Under this program, staff investigates manufacturers and dealers of aftermarket parts to make certain that the parts offered for sale in California has the appropriate certifications or exemptions. During 2007, staff closed a number of cases dealing with illegal fuel injection and air induction parts and is currently working on cases dealing with illegal after-market catalytic converters used on advanced technology (OBD II) vehicles.

- **Street Racing Enforcement Assistance Program**
Mobile source enforcement staff provides assistance and training to California Highway Patrol (CHP) and local law enforcement agencies throughout California in the effort to curb vehicle engine tampering and eradicate street racing. The training assists peace officers in writing solid tampering citations for vehicles that are equipped with illegal engine modifications and after-market parts.

Heavy Duty Diesel Enforcement Program

The Heavy-Duty Diesel Enforcement Program inspects heavy-duty trucks and buses for excessive smoke emissions and tampering of emission control systems. Every heavy-duty vehicle traveling in California, including those registered in other states and foreign countries (i.e. Mexico or Canada), is subject to inspection and testing. Vehicle in fleets, such as transit buses, solid waste collection vehicles, etc., are required to comply with ARB fleet rules. These fleet rules are adopted under the ARB Diesel Risk Reduction and Goods Movement programs, which reduce vehicle emissions through the installation of exhaust emission control devices such as diesel particulate filters, new engines, etc.

- **Solid Waste Collection Vehicle Program**
The Solid Waste Collection Vehicle program enforces an Air Toxic Control Measure (ATCM) adopted by the ARB under the diesel risk reduction plan. It requires that solid waste collection vehicles be retrofitted, repowered or replaced according to a specified phase-in schedule.
- **The Heavy Duty Vehicle Inspection Program**
The roadside Heavy Duty Vehicle Inspection Program (HDVIP) is a program designed to reduce excessive visible smoke emitted from the exhaust of heavy duty diesel powered trucks and buses on California roads. Vehicles are tested at random roadside locations statewide including Environmental Justice areas such as the maritime ports in Los Angeles, Long Beach and Oakland and the Mexican border crossings. Vehicles found with engine tampering or smoke emissions exceeding applicable standards are cited with penalties ranging from \$300 - \$1800 per violation and must be repaired within 45 days. The CHP may impound and the DMV can block the registration of non-compliant vehicles.
- **Periodic Smoke Inspection Program**
The Periodic Smoke Inspection Program (PSIP) requires fleets of two or more heavy duty diesel vehicles to test their trucks and buses annually for exhaust smoke opacity levels. The PSIP is a companion to the HDVIP, ARB's roadside enforcement program. Under the PSIP, penalties are assessed at \$500 per violation.
- **Engine Certification Label Program (AB1009)**
The Engine Certification Program (ECL) requires that all on-road diesel powered trucks and buses operating in California use engines that are labeled as having been engineered and built to federal exhaust emission certification standards. The ECL program also requires Mexican and Canadian diesel trucks and buses be certified to equivalent standards by their respective governments. This program was adopted by urgency legislation in 2004 as a result of the June 2004 U.S. Supreme Court decision regarding truck emissions from the implementation of the North American Free Trade Agreement. Violations under this program carry penalties ranging from \$300 to \$500. The CHP may impound and the DMV can block the registration of non-compliant vehicles.

- **Commercial Vehicle Idling Program**
This program ensures that commercial vehicles are prohibited from idling for more than five minutes in any given area including sleeper berth trucks. Enforcement is concentrated around commercial areas conducive to truck activity, schools, truck stops, Environmental Justice areas and residential neighborhoods. Exemptions are provided for idling that is necessary for safety or operational purposes. Penalties start at \$300 per violation. To enhance program enforcement, the ARB is training local air pollution control districts to enforce the prohibitions of this program.
- **School Bus Idling Air Toxic Control Measure**
This program prohibits drivers of school buses, transit buses, or other commercial heavy-duty vehicles from idling while at schools, and requires drivers to minimize idling when within 100 feet of a school. Exemptions are provided for idling that is necessary for safety or operational purposes.

Program Metrics

Data Characteristics

This program maintains activities-based databases, which contain all relevant information about an inspection/citation. Data is organized into reports that help investigators identify multiple related parties, and gives management an easy way to manage workload.

As the Mobile Source program has grown over time, its database requirements have increased as well. In order to continue to provide management with the tools needed to navigate the program's complex dataset, a new database system is being developed. This new system will create new performance-tracking capabilities such as comparison with past years activity, real time compliance rate tracking, and case status.

Program Inputs

This program employs one branch chief, four section managers, four field supervisors, 40 full-time staff, 12 students, and eight retired annuitants.

Program Outputs

Program	Inspections	Violations	Penalties Assessed
On-Road Program (49 state vehicles)	N/A*	44	\$746,250
On-Road Program (Motorcycles)	N/A*	10	\$3,476,344
Non-Road	N/A*	5	\$283,566
After-market Parts	N/A*	3	\$1,190,000
Solid Waste Collection Vehicles	1,942	358	\$97,800
Heavy Duty Vehicle Inspection	20,250	663	\$182,100
Periodic Smoke Inspection/Diesel Fleets	N/A*	50	\$3,161,175
Engine Certification Label (AB1009)	16,222	1,835	N/A†
Commercial Vehicle Idling	1,470	125	\$12,500
School Bus Idling	114	13	\$1,800

* Violations are uncovered through random audits of dealers and manufacturers, referrals, informants, tips, and complaints.

† AB1009 regulations included a moratorium on penalties for 2007 – penalties became effective on February 15, 2008.

Program Outcomes

The programs with compliance rates available are listed in the table below:

Program	Compliance Rate
Solid Waste Collection Vehicles	82%
Heavy Duty Vehicle Inspection	97%
Engine Certification Label (AB1009)	89%
Commercial Vehicle Idling	91%
School Bus Idling	89%

2) Stationary Source Enforcement Branch

Description

The Board's Stationary Source Enforcement Programs are responsible for conducting inspection, investigation, and compliance functions in conjunction with the 35 local air districts and for overseeing air district enforcement programs; for conducting special and joint investigations of cross-media environmental cases (i.e., cases involving multiple environmental areas such as air, water, toxic wastes, regular waste, or pesticides); and for regulating the composition of motor vehicle fuels and ensuring compliance with motor vehicle fuel regulations, cargo tank vapor recovery regulations, and consumer products regulations.

Stationary sources contribute substantially to emissions of criteria and toxic pollutants. Between one-quarter and one-half of the ozone-forming pollutants emitted are from stationary sources. The nature of stationary source pollution is that it may be identifiable as from a specific, or "point" source, such as a factory, or from a class of, or "area" sources, which individually emit small quantities of pollutants but which collectively emit significant emissions, such as consumer products.

This program includes:

- **Cargo Tank Vapor Recovery**
The Cargo Tank Vapor Recovery Program is responsible for ensuring the reduction of Volatile Organic Compound (VOC) emissions from gasoline cargo tanks. Vapor recovery systems on cargo tanks capture the emissions that are produced during the transportation and delivery of gasoline. Cargo Tank enforcement staff conduct statewide random inspections of cargo tanks at terminals and loading racks. This program is also responsible for administering the annual certification compliance test program that includes: reviewing applications for compliance with the annual leak rate requirements; certifying over 5,000 cargo tanks per year; maintaining a database of ARB certified testers; and conducting inspections of ARB-certified testers to ensure that leak tests are being properly completed.
- **Consumer Products Enforcement**
The Consumer Products program ensures that consumer products and aerosol coatings comply with the state standards that are set in the California Consumer Products Regulations. These regulations restrict VOC emissions from over 115 consumer product categories and 36 categories of aerosol coatings. The regulated universe includes over 100,000 retail outlets, thousands of different products, and hundreds of consumer products manufacturers.

- Fuels Enforcement

The Fuels Enforcement Program regulates the composition of motor vehicle fuels and ensures compliance with motor vehicle fuels regulations, including California Reformulated Gasoline regulations and California Diesel Fuel regulations. The enforcement of this program includes the inspection of motor vehicle fuels facilities which produce, import and retail California gasoline and diesel fuel; the recording and maintaining of company records of predictive models, certified fuel formulations, and fuels distributors; the development and resolution of motor vehicle fuels cases; and outreach and assistance to the public and the regulated community in the form of training seminars, individual company meetings, and instructive web pages.

- Portable Fuel Containers Enforcement

The Consumer Products section also ensures that portable fuel containers sold in California comply with the performance standards and certification requirements established in the statewide regulations. These regulations limit emissions from the evaporation, permeation, and spillage of fuels. These products are typically small, reusable cans with spouts that are used to store, transport, and dispense gasoline and diesel fuel in to lawn maintenance equipment and vehicles. Program staff collects samples of spill-proof containers and spouts for testing, investigates the sale of non-complying products, and settles cases where violations are found.

- Stationary Source Investigations, Inspections, and Surveillance

This program conducts special and joint investigations of cross media environmental cases (i.e., cases involving multiple environmental areas such as air, water, toxic wastes, regular waste, or pesticides); supplies surveillance service in support of multi-media cases; works under a Memorandum of Understanding with Cal/EPA to provide the investigative services necessary to fulfill Cal/EPA's statutory enforcement responsibilities; provides enforcement assistance (inspections, investigations, and case preparation) to local air districts and other local and regional environmental agencies; and enforces the Goods Movement regulations and performs statewide inspections in rail yards, ports, and marinas.

- Stationary Source Enforcement Section

The Stationary Source Enforcement Section oversees a collection of mandatory programs and activities that provide oversight of the local air pollution control districts in the following program areas:

- **Asbestos NESHAP Program:** ARB staff reviews and investigates demolition/renovation notifications in the 19 non-delegated air districts
- **Complaint Investigations and Hotline:** ARB staff responds to complaints about air pollution initiated by citizens and other agencies with investigations and/or referrals to the appropriate agencies
- **Burn Issues:** ARB also investigates and responds to the complaints and inquiries specific to agricultural and other open burning
- **Variance Program:** ARB staff reviews all district hearing board orders for compliance with Health and Safety Code requirements
- **Air Facility System:** ARB staff collects, inputs, and conducts quality assurance on data received from 26 of the 35 air districts for federally required compliance, permitting, and violation status of major sources
- **Continuous Emissions Monitoring Program:** ARB staff gathers and analyzes data from emission monitoring devices required by air districts at stationary sources

- **Rule Review:** ARB staff reviews air district rules for enforceability, compliance with state laws, clarity and accuracy.

Program Metrics

Data Characteristics

The Cargo Tank Vapor Recovery program maintains a database of over 5000 ARB-certified testers annually. The Fuels Enforcement program maintains a database of over 3000 predictive models from producers and importers of California gasoline annually; and the Fuels Certification Program maintains a list of ARB annually certified distributors of California gasoline that is accessible on the Enforcement Program web pages.

The Consumer Products Enforcement program maintains a database, which contains pertinent information on every collected sample, including sample descriptions, purchase locations, manufacturer information, and laboratory test results. Data is organized into reports that help investigators quickly identify multiple related non-compliant samples, and gives management an easy way to manage workload.

The Stationary Source Enforcement program maintains databases and generates reports in the following program areas: (1) Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP); (2) Complaint Hotline; (3) Variance Program; (4) Air Facility System (AFS); and (5) Continuous Emissions Monitoring (CEM) Program. Monthly and quarterly reports are generated in the AFS program. Ad hoc reports may be generated from most databases.

Program Inputs

This program employs one branch chief, four section managers, 38 full-time staff, 10 students, and one retired annuitant.

Program Outputs

Program	Activity	Settled/Closed Cases	Penalties Assessed
Cargo Tanks	1,952 (cargo tanks inspected)	60	\$23,500
Consumer Products	2,543 (samples collected)	38	\$1,676,818
Fuels Enforcement	3,367(samples collected)	22	\$574,500
Portable Fuel Containers	124 (samples collected)	12	\$330,550
Stationary Source Program	2253 (inspections)	57	\$18,500,000

Program Outcomes

By enforcing clear and consistent standards through inspections and investigations, the Stationary Source Enforcement Branch is able to deter violators and thereby ensure a more level playing field for all regulated parties. The potential for undiscovered violations may affect the estimated compliance rates. The Consumer Products and Portable Fuel Container programs do not calculate compliance rates due to the targeted focus of the sampling programs (new categories, revised limits, or similar violations) and the limited analysis capacity relative to the number of regulated products. Compliance rates are also

not calculated for the Stationary Source investigations and inspection programs due to the unique nature of each stationary source investigation and case.

Program	Compliance Rate
Cargo Tank Vapor Recovery	89.1%
Fuels Enforcement	99.1%

3) Training and Compliance Assistance Programs

Program Description

The training and compliance assistance programs provide comprehensive education to further the professional development of environmental specialists. The programs focus on two key elements: training and compliance assistance. These nationally recognized and award-winning training courses encourage communication and networking between environmental personnel, with the goal of achieving emission reductions and solving compliance problems through professionalism and teamwork. The courses cover pollution history, the procedures required to properly evaluate emissions, the analysis of industrial processes, theory and application of emission controls, and waste stream reduction. They focus on maintaining compliance with applicable laws and regulations. Staff conducts and administers these courses throughout the State.

The compliance assistance program develops and makes available, both on the internet and in print, a variety of practical, rule-specific publications that describe source processes and emission control equipment, clarify rule requirements, identify compliance issues, and promote self-regulation. Available publications include technical manuals on interactive CD, self-inspection handbooks, and pamphlets. The technical manual CDs are primary references used in the training courses and provide in-depth, source-specific information for inspectors and facility environmental specialists. The handbooks and pamphlets explain source-specific regulatory and compliance programs in everyday terms. These brief, colorful, self-help resources serve as outreach and compliance assistance to the industry and are routinely used and distributed by local air districts to assist businesses in their jurisdiction.

Program Metrics

Data Characteristics

This program maintains a student database comprised of over 15,000 registered students, as well as a website where training classes and publications are posted. Students can register for classes online and can easily download any handbook or pamphlet. Technical manual CDs are distributed by request and most are available for download.

Program Inputs

The Training and Compliance Assistance Branch runs these programs. The branch consists of one branch chief, two managers, 21 staff, seven retired annuitants, and four students.

Program Outputs

In 2007, staff provided a total of 70 classes or multi-day training courses, representing 5,879 student days of training. Staff distributed 15,290 copies of publications. The distribution was as follows: 4,794 technical manuals (including interactive and archival CDs), 7,700 handbooks, and 2,796 pamphlets. The tables below give a breakdown of the courses taught and the top five publications distributed in 2007.

Courses and Attendance for 2007

Classes and Programs	# of Courses	Student-Days
Introductory Air Quality Courses (100 Series)	8	3,145
Source-Specific Air Quality Courses (200 Series)	47	870
Specialized Air Quality Courses (300 Series)	11	1,542
Advanced Air Quality Courses (400 Series)	4	322
Totals	70	5,879

Top Five Hardcopy Materials Distributed In 2007

Rank	CDs	Handbooks	Pamphlets
1	Fugitive Dust	Visible Emissions Evaluation	Asbestos-Containing Rock & Soil for Homeowners and Renters
2	Continuous Emissions Monitoring Systems	Naturally-Occurring Asbestos	Limits on Diesel-Fueled Commercial Motor Vehicle Idling
3	VOC Control Devices/Scrubbers	Asbestos Demolition & Renovation	Cleaners and Degreasers Used in Automotive Maintenance & Repair
4	Boilers	Fugitive Dust	Transport Refrigeration Units #1 Overview (English)
5	Aggregate Plants	Wood Burning	Stationary Internal Combustion Engines

Program Outcomes

All courses are very well received and in high demand. Each course is planned, updated, and scheduled annually to meet the specific needs of most local agencies in the State. In addition, many special training courses are requested by other agencies and industries annually, and are provided as resources allow.

Current efforts include the development of web-based training courses in order to provide better coverage to local agencies in remote areas that may not be able to travel to our scheduled training courses.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

ARB's Enforcement Division (ED) is constantly reviewing its methodologies, policies, and procedures in order to make the best use of available resources. There are currently several efforts underway within the program that hope to achieve this goal.

A) Case Tracking System Development

As casework has grown more complex, often involving multiple violations by overlapping entities across several program areas, ED leadership has approved the creation of a case tracking system. Still in its early stages of development, this system will help investigative staff integrate their investigations into a broader operational context, and help senior management and legal staff better understand and pursue habitual violators. An initial rollout of the system should take place by 2009.

B) Regulatory Development, Assistance, and Review

In a complex regulatory regime such as the one in which ARB operates, it is vital that each division within the agency contribute its expertise to the regulatory development process. Typically, ED has performed this role on an ad-hoc basis at the request of other ARB divisions. However, now that ARB has undertaken new regulatory duties under AB32, ED has formalized its regulatory review process under the auspices of a new Greenhouse Gas Enforcement Section. The new section will address enforceability concerns during the earliest regulatory development phase, thus streamlining the process.

C) Strategic Plan Implementation

In 2003, following the final phase of the consolidation of ARB's enforcement efforts into one combined program, enforcement staff and management performed a top-down strategic examination of this program to determine where modifications and enhancements would be needed. The internal operating plan that resulted considered a set of guiding principles, established goals with proposed objectives for reaching those goals, and made recommendations as to how additional staffing, technology resources, or operational fine-tuning could fulfill ARB's enforcement needs. Enforcement management will continue to modify and further implement the plan as new regulatory requirements dictate.

IV. PROGRAM LIMITATIONS

Enforcement programs are necessarily limited by available resources including staff and budget constraints. In addition, the complexity and dissimilarity between programs and the rapid pace of regulatory development creates a unique challenge for management.

However, the ARB enforcement program makes the most out of every hour of staff time through extensive cross training and exposure to the regulatory development process. Enforcement program management and staff are constantly "plugged in" and provide input to the creation and revision of ARB regulations. New training courses and cross-training between programs keeps staff up to date with the various program areas, and allow management to target resources to where they are most needed. Additionally, the ARB enforcement staff work closely with allied agencies at the local, state, and federal levels to maximize its enforcement resources.

V. APPENDICES

Any discussion about compliance rates contained in this report should be used for comparative purposes within the specified program area only. Since each regulation has its own specific and unique requirements, each program uses an enforcement approach that is tailored to those requirements. Therefore, any compliance rate comparison between programs would be highly qualified and of limited value.

More comprehensive information relating to inspection statistics, case dispositions, and local air district enforcement activities is included in our "2007 ARB Annual Reports of Enforcement Activities," available both online and in print. For more information, please visit our Enforcement Report web page at: <http://www.arb.ca.gov/enf/reports/reports.htm>

Please note that it is the ARB's practice to keep confidential the names of those entities involved in pending enforcement actions, and this convention will be observed in this report. Specific case settlement summaries can be viewed at ARB's Enforcement Program web site located at:

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

For more information on the ARB Enforcement Division or its programs, please contact James R. Ryden, Chief, at (916) 322-7061 or jryden@arb.ca.gov.

LIST OF ACRONYMS

Acronym	Full Name
AAOT	Air Academy Online Training
AFS	Air Facility System
APCD	Air Pollution Control District
APCF	Air Pollution Control Fund
AQMD	Air Quality Management District
ARB	Air Resources Board
ASTM	American Society for Testing and Materials [Standards]
ATCM	Air Toxic Control Measure
BACT	Best Available Control Technology
Bhp	Brake-horsepower
BIA	Basic Inspector Academy
BOE	Board of Equalization
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CARBOB	California Reformulated Blendstocks for Oxygenate Blending
CaRFG3	California Reformulated Gasoline Phase III
CAS	Compliance Assistance Section
CCDET	California Council on Diesel Education Technology
CCR	California Code of Regulations
CEM	Continuous Emission Monitoring
CHP	California Highway Patrol
CIWMB	California Integrated Waste Management Board
CNC	Certificate of Noncompliance
CPES	Consumer Products Enforcement Section
CTS	Compliance Training Section
CUPA	Certified Unified Program Agency
DMV	Department of Motor Vehicles
DOJ	Department of Justice
DTSC	Department of Toxic Substances Control
ED	Enforcement Division
EJ	Environmental Justice
EO	Executive Order
EPA	Environmental Protection Agency

Acronym	Full Name
EVR	Enhanced Vapor Recovery
FCE	Full Compliance Evaluation
FOE	Fundamentals of Enforcement
GHG	Greenhouse Gases
HDVIP	Heavy Duty Vehicle Inspection Program
HPV	High Priority Violation
HSC	Health and Safety Code
ICE	Internal Combustion Engine
IRS	Internal Revenue Service
ISO	International Standards Organization
LSI	Large Spark Ignition
MBUAPCD	Monterey Bay Unified Air Pollution Control District
MDAQMD	Mojave Desert Air Quality Management District
MLD	Monitoring and Laboratory Division
MOU	Memorandum of Understanding
MSAB	Mobile Source Analysis Branch
MTBE	Methyl Tert-Butyl Ether
MY	Model Year
MSEB	Mobile Source Enforcement Branch
NACTDP	National Air Compliance Training Delivery Project
NESHAP	National Emissions Standards for Hazardous Air Pollutants
NOV	Notice of Violation
NO _x	Nitrogen Oxide
NSR	New Source Review
NTC	Notice to Comply
OBD II	Onboard Diagnostics II
OEM	Original Equipment Manufacturer
OGV	Ocean-Going Vessel
OHRV	Off-Highway Recreational Vehicle
OLA	Office of Legal Affairs
PAH	Polynuclear Aromatic Hydrocarbon
PCCD	Peralta Community College District
PERP	Portable Equipment Registration Program
PM	Particulate Matter
Ppm	Parts per Million
PSD	Prevention of Significant Deterioration
Psi	Pounds per Square Inch
PSIP	Periodic Smoke Inspection Program
PTSD	Planning and Technical Support Division
RR	Railroad
SAE	Society of Automotive Engineers
SB	Senate Bill

Acronym	Full Name
SCAQMD	South Coast Air Quality Management District
SDCAPCD	San Diego County Air Pollution Control District
SEIES	Strategic Environmental Investigations & Enforcement Section
SEIT	Strategic Enforcement Intelligence Team
SEMA	Specialty Equipment Manufacturers Association
SEP	Supplemental Environmental Project
SIME	Spark Ignition Marine Engine
SJUAPCD	San Joaquin Valley Unified Air Pollution Control District
SMAQMD	Sacramento Metropolitan Air Quality Management District
SORE	Small Off-Road Engine
SPA	Secretary for Environmental Protection [Baja California]
SPI	Sierra Pacific Industries
SSD	Stationary Source Division
SSES	Stationary Source Enforcement Section
SWCV	Solid Waste Collection Vehicle
SWRCB	State Water Resources Control Board
TRU	Transport Refrigeration Unit
UP	Union Pacific
VEE	Visible Emissions Evaluation
VOC	Volatile Organic Compound

AIR POLLUTION CONTROL DISTRICTS

I. EXECUTIVE SUMMARY

Air Pollution Control programs for stationary sources in California are implemented and enforced by thirty-five local air pollution control and air quality management districts. As part of an ongoing effort to characterize enforcement programs at the local level, the California Air Pollution Control Officers Association (CAPCOA) surveyed eleven of its larger member districts.

Enforcement of, and compliance with, air pollution control requirements is undertaken and measured through a variety of activities, approaches, and tools. This report reviews select program elements and data. Overall, the data describe a robust enforcement and compliance assistance program with substantial funding and staff resources that achieve a high degree of compliance with applicable requirements. Compliance assistance and outreach programs proactively prevent violations from occurring, but when violations do occur, robust enforcement actions bring about a prompt return to compliance.

A) Major Program Highlights

The following statistics measure performance of select enforcement and compliance program elements at the eleven largest local air districts over a five-year period (from 2002 through 2006). These districts include within their jurisdictions over 93% of California's residents. As described in greater detail below, these data were gathered through an extensive survey process. They describe a robust and effective enforcement and compliance program for stationary sources of air pollution. Program achievements include:

- Over 510,000 inspections at traditional stationary sources between 2002 and 2006,
- Over 55,000 inspections of Major Permitted Sources (a.k.a. Title V Facilities);
- Facility compliance rate about 95%;
- Over \$130 million in monetary violation settlements;
- More than \$37 million in non-monetary violation settlements;
- Over 185,000 special purpose inspections;
- Nearly 33,000 inspections for asbestos pursuant to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos;
- More than a 5-fold increase in the number of inspections of portable equipment;
- More than 500 full time employees (FTE) conducting field inspections;
- Over 4,000 days of training for field staff, or approximately 825 training days per year;
- Approximately 25% of total district budgets dedicated to enforcement.

B) What the Reported Data Tells Us

The reported data show that local air districts dedicate substantial resources to enforcement of stationary source requirements, and other special requirements, such as federal standards for hazardous air pollutants. The data also show that the resources are efficiently deployed to produce measurable enforcement and compliance presence, and that this presence results in a high degree of compliance.

C) How the Program Will Use This Information

Each individual air district uses its inspection, enforcement, and compliance statistics to establish future program goals and to guide the prioritization and deployment of resources. Collectively, through CAPCOA, the districts share information about enforcement and compliance to identify broader issues and problems, and to leverage their collective experience. CAPCOA also works collaboratively with the Air Resources Board (ARB) to identify areas for joint program improvement efforts.

II. THE ENFORCEMENT PROGRAM AT LOCAL AIR DISTRICTS

A) Overview

There are 35 local air pollution control and air quality management districts in California. The earliest local air districts were created in response to urban air pollution problems, notably in the San Francisco Bay Area and in Los Angeles. In 1970, legislation established a local air pollution control or air quality management district in every county in California. State law recognizes multi-county districts that were already in existence, and provides for districts to unify into regional agencies.

Local air districts run monitoring networks to measure pollution in ambient air. They develop plans to attain state and federal ambient standards, and adopt regulations and other measures that implement the plans. Districts issue construction and operating permits or registrations for stationary and portable equipment or activities that emit air pollution, and inspect equipment and activities to ensure compliance with applicable requirements. This permit review includes requirements for new or modified sources of air pollution to use the best pollution control technology for criteria pollutants and a risk-based review of toxic air pollutants.

Districts review the toxic emissions from facilities and the associated impacts on the public, and require facilities that pose significant risks to implement risk reduction plans. Districts also regulate activities like open burning on agricultural or forested lands, and activities that cause a public nuisance. Local districts regulate agricultural sources of air pollution, including livestock operations, field operations that generate dust, and certain agricultural engines. They also review the air pollution impacts of projects under the California Environmental Quality Act (CEQA).

In addition to programs mandated by federal and state law, local air districts develop programs to respond to specific local air pollution problems and concerns. These can include measures to reduce emissions from indirect sources of air pollution, such as residential or commercial development, programs to support development of new, low or zero emission technologies, efforts to address global warming, and work to reduce impacts on communities, especially low-income communities and communities of color. Districts collaborate with local governments, business and the public to reduce transportation-related air pollution through better planning and infrastructure, and voluntary programs to reduce motor vehicle trips. They also implement financial incentive programs to reduce emissions from motor vehicles and heavy-duty diesel engines, lawn mowers, fireplaces, woodstoves, and other sources.

An important, but non-regulatory component of enforcement and compliance programs is the outreach made by the district to the regulated community to the public in general. The goal outreach is to improve the general and specific knowledge of the people who operate sources that are subject to regulation, and to assist them in complying with their requirements. It also improves the understanding of the general public and allows them to more knowledgeably report concerns about non-compliance.

Outreach efforts encompass a number of activities. These include, for example, the distribution of printed materials that address air pollution issues broadly, or specific regulations and how to comply with them; workshops and community meetings; the staffing of public information lines to respond to phone inquiries; the development and maintenance of on-line, electronic information; and individual meetings when appropriate or requested. Data on compliance assistance programs are not included in this reporting, however.

Organizational Structure

Local air districts operate at the direction of their Boards of Directors. The Board at each air district has, at a minimum, county Supervisors of the county or counties within the jurisdiction of the agency. Districts meeting the criteria of the Hauser Act also have representation of cities (by city council members) within their jurisdiction. A few of the larger districts also have members appointed by the governor, legislators, or a mayor. Other than this small number of appointees, all members of district governing boards are locally elected officials.

The Air Pollution Control Officer / Executive Officer of the air district is appointed by the governing board. He or she directs the district staff. The size and organization of air district staff varies considerably across the 35 local air districts. The largest air district has a population exceeding 16 million, and over 800 full time employees. The smallest air district has a population less than 10,000 people, and one employee, who also performs other functions (such as acting as the Agricultural Commissioner, for example). The larger air districts have full time legal counsel, and in some cases full time prosecuting attorneys as well. Smaller air districts contract for legal services, typically with counsel for the county or counties within their jurisdiction. Some of the smaller, rural air districts also work with the Circuit Prosecutor Program established by Cal/EPA, and consult with legal counsel at the Air Resources Board or at other air districts if additional, specific legal expertise is needed.

Each local air district also has a hearing board, established pursuant to the Health and Safety Code, with membership appointed by the governing board and restricted to specified areas of expertise. The hearing boards review petitions for variances from local rules and regulations, proposed orders of abatement in cases of non-compliance, and appeals of permitting decisions made by the Air Pollution Control Officer.

B) Enforcement Program Components

There are several important components in a robust enforcement program. This report focuses on field enforcement activities, namely inspections and investigations. The data are based on a review of enforcement and compliance conducted by CAPCOA. CAPCOA reviewed and compiled enforcement data from 11 local air districts (“the/these districts”) for the years 2002 through 2006. The review focused on the five largest districts in California and six medium size districts. These 11 districts – the Bay Area AQMD, Mojave Desert AQMD, Monterey Bay Unified APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, South Coast AQMD, Ventura County APCD, and Yolo-Solano AQMD -- represent nearly 93 percent of the population in California -- see Appendix A, Population By Air District. Since air pollution has a direct link to population in terms of causes and impacts, CAPCOA chose to use its limited resources to study only these districts because they best represent local district activity in California in terms of population and air pollution sources.

The survey covered fifty-three discrete measures of compliance program performance from each of these districts in each of the five years reviewed, for a total of more than 2,900 data points. These included information on agency resource commitments, compliance rates, repeat violations, civil penalty averages, case disposition, and criminal referrals.

Generally, the data reported here concern field inspections and investigations. An inspection entails a visit to the actual facility site, and observation of the equipment during operation. The inspector will review the operation against the requirements listed in the permit and, for sources not required to have a permit, as well as for permitted sources, against the requirements contained in any applicable federal, state, or local air regulation. Depending on the type of operation, and the regulations of the air district with jurisdiction, there may be a small or large number of individual requirements and limitations, and they may apply across the facility, or only to a specified activity or piece of equipment. Requirements and limitations may include direct limits on emissions as measured at a specified point; restrictions on throughput, production, or hours of operation; restrictions on raw materials or fuels used; specifications for temperature, pressure, or other operating parameters; prohibitions against certain actions; requirements to install, operate, and maintain pollution control equipment; requirements to undertake specified mitigation actions; and requirements to measure, record, and/or report emissions or process parameters.

Inspection of a source in the field involves direct verification that all applicable requirements are being met. This may entail observation of emission streams, including visual reading of opacity, measurement of emissions content with various analyzers, and observation of emissions monitoring data. The inspector will also measure or observe the monitoring of specified operating parameters, including mitigation requirements, such as sweeping, watering, and other such actions. He or she may also conduct testing of equipment performance using specified test methods. Visual inspection of equipment and emissions control devices is done to ensure everything is in proper operating order, and that changes have not been made in equipment or operations without agency review and approval. Stockpiles or other storage of feed materials and product are also examined and samples may be taken to verify content. Data review include examination of emissions and parametric monitoring records, source testing results, operational logs (including production data), mitigation logs, excursion reports, and any other relevant information.

1) Major Permitted Source Inspection

Major Sources are defined under the federal Clean Air Act (CAA). The definition is based on the magnitude of the potential emissions from the source. The emissions threshold at which a source is considered "major" varies according to the attainment status of the air district in which the source is located. In areas that attain the National Ambient Air Quality Standards (NAAQS), or are moderate non-attainment, major sources are those that have the potential to emit at least 100 tons per year of any regulated air pollutant, or 10 tons of any single hazardous air pollutant (HAP), or 25 tons of any combination of HAPs, as defined under the CAA. That threshold is lowered in areas with more significant non-attainment problems, becoming increasingly more restrictive as the non-attainment problem becomes more severe. In areas with extreme non-attainment problems (indicating the most extensive problem), a source is considered major if it has the potential to emit at least 10 tons per year of a regulated air pollutant.

All such major sources are required to hold permits under Title V of the federal CAA. These sources are also subject to extensive monitoring, recordkeeping, and reporting requirements and they are required to submit annual certifications of compliance. Most of these sources have continuous emission or continuous parametric monitors. The local air district issues and enforces the terms of this permit.

This inspection category represents the number of periodic Title V facility compliance determinations conducted in a given period (as required by EPA). One inspection would be assigned for each Title V facility inspection completed. Some of these facilities are inspected quarterly, and a few, such as petroleum refineries, are so large and complex, with tens of thousands of pieces of equipment and/or potential emission points, that inspectors are on-site almost full time because it can take a full year or more to review the entire facility. It should be noted that, in many instances, Title V sources not only have routine compliance inspections but other inspections as well including, equipment breakdown investigations, complaint investigations, witnessing or conducting source tests, continuous emissions monitors (CEMs) review, and reviewing records/Title V reports. If a certain category of equipment is prone to be in non-compliance, it likely will receive additional scrutiny at all applicable sources.

2) Minor Permitted Source Inspection

Minor Permitted Sources are sources that not considered “major” according to the federal definition. Many of these are smaller sources, such as gas stations, drycleaners, and auto body shops. Others are relatively large, in spite of the title “minor” and may include such operations as aggregate mining, combustion equipment, coating operations, printing, and circuit board manufacturing.

Minor sources are not required to have federal Title V permits. They do, however, hold local air permits. Some of these sources have continuous monitoring, however most do not. The recordkeeping and reporting requirements are typically less extensive as well. They may be inspected once a year, or even more frequently than that, but if the emissions are relatively low, their toxic emissions are not significant, and they do not present other issues of concern (such as public nuisance), they may be inspected less than annually.

The designation of “minor” does not necessarily mean the sources are unimportant, however. There are tens of thousands of stationary sources whose emissions are not above “major source” thresholds, but which present a potentially significant risk to human health and the environment because of the toxicity of the pollutants emitted. These include chrome plating operations, sterilizers that use ethylene oxide, drycleaners that use perchloroethylene, gas stations, coating operations with toxic metals in the coating, and internal combustion engines that are fueled with diesel. Not only are the emissions hazardous, the sources are frequently located much closer to residential areas than large industrial sources are, because zoning often permits their operation in business and commercial areas, and even co-located with higher density housing. Because of this, these sources are typically inspected at least once a year. Minor sources with the potential to emit significant or toxic emissions and/or have had a prior history of non-compliance will receive extra scrutiny from districts.

This category would encompass any “complete inspection” conducted of any non-Title V facility that is subject to District permitting or registration requirements i.e., all permitted/registration equipment and all processes subject to source-specific requirements. Typical compliance activities would include annual or recurring inspections; or inspections stemming from a complaint investigation, visible emission observation, or environmental justice-related issue. One inspection would be assigned for each non-Title V permitted facility inspection completed.

3) Non-permitted Source Inspection

Some sources are subject to regulation, but not required to obtain permits. The sources involved here will vary somewhat from district to district. In areas that attain most or all standards and there is not a significant nonattainment problem, small sources may not require permits where they would in areas

that have more substantial nonattainment problems. There are also rules that affect many ubiquitous sources that are enforced without permits. These may include such regulations as restrictions on residential wood combustion, limitations on the content of coatings offered for sale, or limitations on idling engines; in some areas, open outdoor burning is regulated but not subject to permits. Some districts require permits/approval to conduct burning of agricultural waste, prescribed burning of forest land, or hazard reduction burning in remote rural areas. The compliance departments work closely with in-house/local/state meteorologists to ensure emissions from such burns are minimized.

Some of these inspections involve reviewing shelf-stock at retail operations, while others may involve driving around looking for smoke on days when burning has been restricted. Some districts will take samples of coatings and other products and have analyzed by a laboratory to ensure they meet rule requirements. Enforcement of anti-idling rules is done in places like ports, outside schools, or at truck stops or job sites. This category includes the “complete inspection” of any source not subject to written permit requirements, but where source specific requirements do apply. This category would also include many area source categories such as open burning, agricultural operations and excavation/demolition sites. One inspection would be assigned for each non-permitted facility inspection completed.

4) Investigation of Upset/Breakdown Reports

Local regulations provide for limited protection from enforcement if emissions limits are exceeded during a qualifying upset/breakdown event. In order to qualify, the emissions have to be the result of a non-routine event, such as the malfunction of a piece of equipment or upset conditions in a process that is outside the control of the operator. The facility operator is required to report the event within a specified time period and provide a written report documenting the cause of the event and the subsequent actions taken. Coverage, or protection from enforcement, may be approved by the Air Pollution Control Officer (APCO) for up to 96 hours in order to allow for repairs and restoration of normal operating conditions. If the repairs will take longer than 96 hours, further protection can only be granted by the hearing board in the form of a variance.

When upset/breakdown reports are received, districts investigate the cause of the event, to ensure that it was in fact outside of the operator’s control, and not the result of an error, negligent actions, or poorly maintained equipment. Other conditions checked by inspectors include whether or not this is a recurring situation and whether this causes a violation of air quality standards or a public nuisance. This category would reflect the number of breakdown investigations undertaken and completed by the 11 districts surveyed. One inspection would be assigned for each breakdown investigation completed, although an investigation may require multiple site visits. Reports of breakdowns are tracked by some districts in databases which allow for tracking to ensure reported events are not recurring.

5) Investigation of Complaints

All air districts have programs to receive, log, and respond to complaints from the public about air pollution problems. Complaints frequently involve objectionable odors, dust, or smoke, but other causes are also seen. The complainant may or may not know where the source of the problem is. Sometimes complaints are reports of health symptoms that the complainant believes are attributed to air pollution from a known or unknown source. Complaints may be lodged about activities or emissions that occurred in the past, in which case an investigation is not possible or can, at best, yield only limited results. In these cases, complainants are instructed to call when the activity, emission, smell, dust, or smoke is actually occurring or present. Some districts have inspectors available twenty-four hours a day to respond to complaints. Others respond after hours only to significant events (that is, where multiple people are impacted or where hazardous emissions are involved), or if a pattern of off-hours complaints

indicates off-hours operations requiring inspection or that an offender may be intentionally timing activities to avoid detection.

The air districts, working through CAPCOA and with the ARB, developed and implemented a complaint resolution protocol that sets forth appropriate complaint response procedures and outlines when and how complaints are referred between the districts and ARB. Typically, the district receives the complaint and enters it into a complaint log. The inspector may review permit files to determine if there are likely sources of the problem in the area, as well as complaint logs to see if other similar complaints have been received in the past. If additional information is needed, the inspector may contact the complainant and interview him or her before visiting the site.

The inspector will note the wind direction and speed at the site, and attempt to confirm the complaint (that is, does he or she observe the odor, dust, smoke, or other emission of concern, or note physiological symptoms similar to those reported in the complaint?). When complaints are directed at a specific source, the investigation may largely resemble a stationary source inspection, but specifically involving activities or equipment that would result in the odor, dust, or other emission that is the subject of the complaint. Efforts are also made to rule out other potential sources, and if the complaint did not identify a possible source, the initial investigation will involve attempts to locate one.

Once a source is located, the inspector will review the operation to determine if it involves the violation of any applicable rules, regulations, or permit conditions. Even if there is not a specific requirement limiting the activity, there is a general prohibition against creating a public nuisance. When investigation of a public nuisance or other air quality violation is triggered by a complaint, the inspector documents the results of the investigation, and reports back to the complainants if requested.

This category includes all complaints assigned to and investigated by field staff. One inspection would be assigned for each complaint investigation completed, even though the investigation may involve multiple site inspections.

6) Verification of Compliance with Variance Terms and Abatement Orders

When the hearing board issues a variance from a requirement, the source is generally subject to alternative limitations and required to document progress towards returning to compliance with the otherwise applicable requirement(s). Similarly, when an order of abatement is imposed, it contains requirements to document progress towards compliance, typically at intervals or based on completion of specified actions (such as the ordering of control equipment, followed by installation, testing, and certification of compliance). There may be alternative production limits that apply in either case, or limitations of hours of operation, either generally reduced, or restricted to avoid exposing sensitive receptors (e.g., not operating during school hours to avoid exposing children).

These inspections typically resemble a routine stationary source inspection. This category would include all activities associated with determining compliance with a variance or stipulated/contested abatement orders, including any applicable increments of progress.

7) Inspection of Portable Equipment

The ARB registers and regulates portable engines and equipment, under its Portable Equipment Registration Program (PERP). These engines operate for limited periods of time at any single site and may operate more frequently at multiple sites over long distances. Program requirements are enforced by local air districts. Initially, the program was voluntary, the enforcement provisions difficult to apply,

and the program was under-funded. Statutory and regulatory changes in 2006 significantly enhanced the enforcement provisions and funding, and the program is now mandatory for any equipment that is not covered by a valid permit or registration with the air district it is operated within.

Under the revised program, engines and equipment are assigned to a “home district” and routine inspections are required once every three years. Inspections are also conducted to locate unregistered equipment and to verify proper operation in the field. Certain types of equipment are also subject to enhanced notification and inspection provisions.

This category reflects all pieces of equipment inspected in accordance with the PERP, as specified by ARB. Unlike the other categories above, these inspections are conducted and counted consistent with the reporting format specified by ARB.

8) Inspections Pursuant to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos and the Air Toxic Control Measure for Naturally Occurring Asbestos

The US EPA promulgates regulations under Section 112 of the federal CAA called National Emission Standards for Hazardous Air Pollutants (NESHAPs). They were historically directed at a specific pollutant, although regulations adopted after 1990 generally affect a source category and all of the hazardous pollutants emitted by those sources. Implementation and enforcement of these rules is delegated by US EPA either to the local air districts or to the ARB.

The NESHAP for Asbestos regulates the renovation or demolition of structures where asbestos is present, including notification, testing, containment, and disposal. In California, 16 air districts have accepted delegation of the program (remaining areas are delegated to ARB). Inspections are conducted in response to complaints and to verify proper asbestos removal and containment procedures during the renovation or demolition activities.

In addition, the ARB has established an Air Toxic Control Measure (ATCM) for Naturally Occurring Asbestos (NOA) that governs construction and mining in soils where NOA may be found. The ATCM specifies testing of the soil and requires enhanced dust mitigation plans where asbestos is present. It also prohibits the use of asbestos containing materials for purposes where exposure could occur (for example, NOA-containing gravel on roadways, paths, or parking areas unless it is fully enclosed within concrete or under pavement). Inspections are done to review testing records and verify implementation of mitigation measures. Areas of known NOA may be surveyed periodically for signs of activity such as residential housing construction. If activity is occurring, an on-site investigation occurs.

This inspection category reflects both NESHAP inspections of renovation/demolitions for those delegated districts as well as ATCM inspections for naturally occurring asbestos.

9) Conducting and Observing Source Tests

As used here, the term “source test” refers to a formal measurement of source emissions (or the content of fuels, raw materials, or product) using methods established by ARB or US EPA, or in some cases, an air district. Some districts have staff that perform a variety of source tests. Other air districts require source tests to be performed by third parties (or in some cases by the source), and observe the conduct of the tests.

This category would include situations where field staff are either conducting field testing using portable equipment or observing source tests conducted by a third party.

C) Program Metrics

Program Metrics

Air districts use a variety of tools and methods to measure and verify compliance. Each tool provides an important measure of compliance, but also has certain weaknesses. The robustness of the compliance program depends on the coordinated use of all of the available tools. By the same token, a complete evaluation of compliance programs must, necessarily, consider the use of all of these tools together. These include annual emissions and compliance reports that are submitted by facilities under permit; data from continuous emissions monitors (CEMs); direct measurement of emissions according to specified protocols (source tests); inspections of sources in the field (periodic and targeted); air monitoring; response to, and investigation and resolution of complaints; and review of data from other agencies or entities.

Reports: As a condition of their operating permits, and as a requirement of many regulations, sources of air pollution submit periodic emissions and compliance reports to their local air district. In almost all cases these reports are submitted annually, in some cases (such as very large sources) they are submitted as frequently as quarterly and in other cases, the reports are made biennially or even triennially. In the case of the regional credit market program, the largest sources must report emissions electronically to the district on a daily basis. Periodic emissions reports detail criteria and toxic pollutants emitted by the source over a specific period of time. The emissions may be directly measured by emissions monitors, calculated from data from parametric monitors or through mass balance, or estimated from approved emission factors. Compliance reports include statements of overall compliance with applicable requirements, as well as specific reports on the performance of required activities, such as replacement of equipment, compliance with operational restrictions, and performance of maintenance and housekeeping.

Continuous Monitors: Sources of air pollution may also have some sort of continuous compliance monitoring. The majority of the largest sources and some of the smaller sources are equipped with CEMs or parametric monitoring systems. Where CEMs are used, such as power plants and refineries, the equipment measures the concentration of certain pollutants in the exhaust streams as they pass through an outlet to the atmosphere. As the name implies, these monitors operate continuously, twenty-four hours per day, 365 days per year. In some cases, this data is reported directly to the district; in other cases it is summarized and provided in periodic reports. In addition to CEMs, there are continuous monitors of other compliance parameters (such as temperature or pressure) that indicate that source or abatement equipment is operating properly. In some cases this information is supplemental to CEMs data; in other cases, this is in lieu of CEMs data.

Source Testing: Some sources are required to have third party testing firms perform tests on equipment at the site to determine actual in-use emissions from equipment that is not equipped with continuous monitors. Air districts can also require a source test be done to demonstrate compliance at any time, and some districts have a source testing team that can arrive at a site, unannounced, to conduct tests.

Field Inspections: Districts maintain trained staff to conduct inspections of sources in the field. Field inspectors are certified to assess visible emissions (i.e., smoke) from exhaust points, and trained to review in-field operations. A typical inspection begins with a review of applicable requirements, including the permit conditions. At the site, the inspector observes the operation of all pollution-emitting equipment and activities and looks for visible emissions and for compliance with operational

standards. The inspector ensures that all emissions control devices are operating properly, reviews data logs to verify emissions limits are being met and operational and maintenance activities are performed as required. The inspector also looks for any new equipment or activities that have not been permitted, and to verify that required replacements have actually occurred. After completing the field review of compliance, the inspector writes an inspection report that becomes part of the source's permanent compliance record; reports for some sources are also submitted to ARB and EPA.

Complaints: Air districts respond to complaints from the public about unusual odors, smoke, dust, or operation at times or locations that are not permitted. ARB and the air districts have a mutually agreed upon protocol for responding to complaints. When a complaint is received, a field inspector is dispatched to the site to interview the complainant, attempt to verify the complaint, and identify the source responsible. After completing the investigation, the inspector prepares a report and follows up with the complainant (if requested). If a considerable number of persons are impacted and complain, the situation may be deemed a public nuisance.

Air Monitoring: Air districts operate networks of air monitoring equipment that measure criteria and toxic pollutants in ambient air. Although not typically considered in the enforcement and compliance program, data from these monitors may be used by inspectors in response to complaints, for example, in determining wind direction with respect to an odor complaint; or in regard to conditions related to outdoor burning, in districts where such burning is allowed. Many of these monitors are regional in scale, but some give a very good indication of air quality in the near vicinity to the monitor. Regional scale monitors show large and long term trends in air quality of a region. Although this is not a good metric for determining compliance by an individual source, clean air in a region or clear trends towards clean air would not be possible without effective regulations and good overall compliance. Some monitors are sited in such a way that they detect short term variations in pollutants near the monitor. Examples of this include an urban monitor showing unusually high concentrations of perchloroethylene that field investigation ultimately attributed to non-compliance by a drycleaner located a block from the monitor, and spikes in hydrogen sulfide that investigation ultimately linked to failure of control equipment at a power plant a mile upwind. By themselves, ambient air monitors do not demonstrate source compliance; however, they supplement other available information and can confirm trends or show isolated non-compliance. Some districts utilize portable ambient monitors that are not regional in scale to measure particulate matter downwind of sources who may be causing a public nuisance.

Data Review: Air districts coordinate with each other to review compliance issues across sectors (such as gasoline dispensing), and with other regulatory agencies to review their inventories (where information is readily available and relevant) as a means of cross-checking air-related information. For example, hazardous waste manifests can verify solvent disposal and sanitation district sewer monitoring or interagency inspection reports may bring to light air quality regulation violations.

Data Characteristics

As stated above, the data reported here are derived from the CAPCOA survey of 11 air districts. The survey covered fifty-three discrete measures of compliance program performance from each of these districts in each of the five years reviewed, for a total of more than 2,900 data points. These included information on agency resource commitments, compliance rates, repeat violations, civil penalty averages, case disposition, and criminal referrals.

Select Program Inputs

The survey shows that local districts devote substantial resources to program enforcement efforts. As summarized in Table 1, below, nearly 25 percent of the annual budget for these agencies is devoted to

enforcement, and the funds dedicated have increased from \$55,911,667 in 2002 to \$62,766,708 in 2006. Unfortunately, because budgets are constrained and labor costs have risen sharply in recent years (especially in regards to health insurance, workers compensation, and retirement liability), the overall increase in enforcement budgets has not been sufficient to sustain staffing levels. It should be noted here that the data included in these tables reflects only those positions conducting in-field compliance verification. Typically, other staff members at a district contribute to the review of compliance as well as enforcement actions. These other positions supporting compliance and enforcement may include engineers, specialists, source-test personnel, laboratory personnel, and legal and administrative staff.

Select Enforcement Resource Commitments at 11 Local Air Districts					
Year	2002	2003	2004	2005	2006
Total Agency Budgets	\$225,284,490	\$231,662,030	\$248,781,560	\$259,231,141	\$267,238,772
Enforcement Budget	\$55,911,667	\$57,983,390	\$61,277,241	\$61,219,323	\$62,766,708
Funded Positions for Field Enforcement	515.0	514.0	522.0	517.0	512.0

Select Program Outputs

The following field inspection statistics were reported for the 11 districts participating in the survey:

Activity	2002	2003	2004	2005	2006	TOTALS
Major Permitted Source Inspections	11,183	9,777	9,764	11,876	13,020	55,620
Minor Permitted Source Inspections.	80,723	84,141	82,228	84,672	82,580	414,344
Non-Permitted Source Inspections	8,833	7,669	8,567	9,717	8,147	42,933
Breakdown Investigations	1,777	1,821	2,280	2,253	2,253	10,384
Complaint Investigations	17,286	16,804	16,592	16,225	14,842	81,749
Variance/Increments of Progress	319	369	377	666	421	2,152
CARB Registered Equipment	79	323	418	619	687	2,126
Asbestos Inspections	6,297	7,009	6,653	6,749	5,588	32,296
Number of Source Tests	2,323	2,502	2,764	2,522	2,568	12,679

The following violation statistics were reported for the 11 districts participating in the survey:

Activity	2002	2003	2004	2005	2006	TOTALS
Number of Violations Found for Facilities	5,580	4,576	4,380	5,203	4,213	23,952
Number Settled	4,527	4,996	3,795	4,880	4,511	22,709
Cash Value of Violations Settled	\$9,921,852	\$8,123,396	\$15,895,935	\$71,777,534	\$24,834,097	\$130,552,814
Non-Cash Settlement Value	\$2,891,429	\$2,802,245	\$1,538,550	\$28,414,620	\$1,667,600	\$37,314,444

Select Program Outcomes

Based on the above data, the survey finds an overall facility compliance rate over 95%.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

The air districts are continually updating methodologies, policies, and procedures in order to make the best use of available resources. Specific program improvement activities are determined by each individual district under the direction of its governing board. The air districts do, however, collaborate through CAPCOA to identify source categories for coordinated enforcement efforts. Examples of these include vapor recovery at retail service stations, stationary internal combustion engines, and portable equipment. In addition, the CAPCOA has recently embarked on a process to share approaches and resources for information management and security.

A) Vapor Recovery

CAPCOA has a standing committee devoted to vapor recovery program issues, including enforcement. The committee meets regularly with ARB staff to review draft executive orders, assess field compliance rates, and discuss program improvement opportunities. CAPCOA is currently working with ARB to identify appropriate enforcement protocols for stations equipped with In-Station Diagnostics for enhanced vapor recovery systems.

B) Stationary Internal Combustion Engines

As part of the ARB Diesel Risk Reduction Program, a number of Air Toxic Control Measures have been established, affecting tens of thousands of stationary engines, including emergency standby and agricultural engines. The CAPCOA Enforcement Managers Committee and Engineering Managers Committee have jointly reviewed the new requirements and prepared summaries and support materials to assist member districts. There is some overlap between some of the regulations, and CAPCOA has worked, and continues to work, with ARB staff to determine appropriate interpretations and applications of ambiguous or overlapping requirements.

C) Portable Equipment

The CAPCOA Enforcement Managers Committee and Engineering Managers Committee have jointly reviewed the revised PERP requirements, including the requirements of the new ATCM for portable

equipment, and prepared summaries and support materials to assist member districts. In addition, districts have committed to increase staff resources devoted to field inspection and enforcement of the PERP as new fees are collected by ARB and distributed to the districts. It is anticipated that the next three years will see a continuing increase in the number of PERP inspections.

IV. PROGRAM LIMITATIONS

Enforcement programs are necessarily limited by available resources including staff and budget constraints. Increasingly, air districts are collaborating through CAPCOA to share approaches and resources to improve enforcement and compliance efforts.

The PERP is a prime example of a program area where poor compliance and insufficient enforcement were identified, and are now being addressed. By sponsoring legislation and working with ARB on rule amendments, CAPCOA enhanced the underlying enforcement provisions and provided a platform for enhanced program funding through fees. Implementation of the revised program is only beginning, because of delays in the review by the Office of Administrative Law (OAL), time needed to make administrative changes at the state level, and time for fees and other program elements to be phased in with the registration cycle. New inspection fees are now being distributed, but it will likely be three years before they are fully implemented.

As previously mentioned, however, CAPCOA committees are engaged in improving enforcement of, and compliance with, PERP requirements. As funding increases, additional staff resources will be devoted to field efforts for this program, and improved outcomes are anticipated.

V. APPENDICES

The data and conclusions contained in this report were collected by CAPCOA as part of an ongoing effort to characterize local enforcement programs. A more comprehensive discussion will be released by CAPCOA at a later date, when the study is completed. Inquiries about the study should be directed to CAPCOA. Inquiries about enforcement programs or actions at individual districts should be directed to the district of interest.

Information about CAPCOA can be found at www.capcoa.org or by contacting Mel Zeldin, Executive Director of CAPCOA, at (916) 449-9603 or melz@capcoa.org.

APPENDIX A**POPULATION BY AIR DISTRICT**

District	2005 Population
Amador County APCD	38,221
Antelope Valley APCD	321,004
Bay Area AQMD	6,904,411
Butte County AQMD	216,401
Calaveras County APCD	45,711
Colusa County APCD	21,315
El Dorado County APCD	175,550
Feather River AQMD	159,245
Glenn County APCD	28,523
Great Basin Unified APCD	33,353
Imperial County APCD	164,221
Kern Eastern (DESERT)	130,587
Lake County AQMD	64,180
Lassen County AQMD	35,696
Mariposa County APCD	18,281
Mendocino	90,487
Modoc County APCD	9,813
Mojave Desert AQMD	460,143
Monterey Bay Unified APCD	743,389
North Coast Unified AQMD	175,814
Northern Sierra AQMD	125,298
Northern Sonoma County APCD	59,218
Placer County APCD	313,930
Sacramento Metropolitan AQMD	1,379,103
San Diego County APCD	3,057,000
San Joaquin Valley Unified APCD	3,658,320
San Luis Obispo County APCD	262,593
Santa Barbara County APCD	419,678
Shasta County AQMD	180,984
Siskiyou County APCD	46,410
South Coast AQMD	16,008,011
Tehama County APCD	61,378
Tuolumne County APCD	58,215
Ventura County APCD	815,528
Yolo-Solano AQMD	318,399

APPENDIX B**LIST OF ACRONYMS**

Acronym	Full Name
APCD	Air Pollution Control District
APCO	Air Pollution Control Officer
AQMD	Air Quality Management District
ARB	Air Resources Board
ATCM	Air Toxic Control Measure
CAPCOA	California Air Pollution Control Officers Association
CAA	Clean Air Act
CEMs	Continuous Emission Monitors
CEQA	California Environmental Quality Act
EPA	Environmental Protection Agency
FTE	Full Time Employee
HAP	Hazardous Air Pollutant
NAAQS	National Ambient Air Quality Standards
NESHAP	National Emission Standards for Hazardous Air Pollutants
NOA	Naturally Occurring Asbestos
OAL	Office of Administrative Law
PERP	Portable Equipment Registration Program

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THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL

I. EXECUTIVE SUMMARY

Working as part of the California Environmental Protection Agency (Cal/EPA), the Department of Toxic Substances Control (DTSC) is responsible for restoring the safety and health of communities; cleaning up sites contaminated by toxic substances from the legacy of California's industrial past; ensuring that hazardous materials generated in California's present industrial economy are managed safely so they do not pose a threat to people or the environment; and for preventing pollution to ensure a safe and healthy future for California. In order to accomplish these objectives, DTSC must have the ability to enforce its regulatory authority. When Governor Schwarzenegger entered office in 2003, he directed the Secretary of Cal/EPA to implement the Governor's *Environmental Action Plan for the Environment*: a key component of the Action Plan was strengthening enforcement performance in California and to be a Global leader ensuring the highest levels of environmental protection.

DTSC Director Maureen Gorsen has set goals for DTSC that include streamlining operations, boosting efficiency, fostering transparency, providing timely response, and improving data access. These goals fall in line among the key elements identified in the Governor's Action Plan to strengthen enforcement, the culmination of which is the reorganization and realignment process DTSC Enforcement began in the late summer of 2007. Under the Director's guidance, DTSC combined nine enforcement units and branches into the Enforcement and Emergency Response Program with the objective of increasing enforcement capabilities. This action will increase the field presence of the Department while organizing enforcement personnel to achieve the Governor's plan for strict enforcement that would result in increased compliance rates and the environment getting cleaner. This program now consists of approximately 164 employees.

A) Major Program Highlights

Strengthening DTSC Enforcement Capacity

In 2007 DTSC reorganized its enforcement groups by combining the former four Statewide Compliance Branches, the Emergency Response Branch, the California-Mexico Border Program, the Trinity and Imperial County Certified Unified Program Agencies (CUPAs), the Criminal Investigations Branch and the former Task Force Support and Special Investigations Branch into the Enforcement and Emergency Response Program. This new program will work to identify facilities outside the regulatory net, identify chronic violators, and level the playing field and increasing compliance rates.

The Goals of the Enforcement Reorganization are:

- Make better use of enforcement resources and improve responsiveness by eliminating redundancy and layers of management through the reduction of four small branches to two branches (Northern and Southern California).
- Encourage teamwork, cooperation, efficiency and sharing of resources via a streamlined organizational structure that breaks down old barriers and provide cross training for employees.
- Ensure a cohesive enforcement policy at DTSC by consolidating enforcement decisions and the setting of enforcement priorities with one top executive manager rather than three competing management personnel.
- Improve flexibility and ready deployment of enforcement staff so DTSC can more quickly identify and mobilize for environmental enforcement needs in the state.

- Improve the quality of enforcement data, including its consistency across all enforcement activities, its accuracy and timeliness and provide a system for ready, easy access to the data. Accurate and timely data will provide DTSC management with the information needed to better track activities and direct and monitor enforcement priorities.
- Develop over time a productive work/organizational culture where all DTSC enforcement pulls together for the common good of California and all Californians.

Below is a Comparison Table identifying how DTSC has strengthened its enforcement capacity before and after the 2007 reorganization.

Before Reorg (05/06)	After Reorg (07/08)	Explanatory Notes
<i>Institutional Strengthening</i>		
Nine (9) separate enforcement units and branches	Unified enforcement resources	Increased accountability, transparency and quicker decision-making Leverage resources, reduce duplication
No direct enforcement report to Director	Create Chief of Enforcement at Deputy-level	Only deputy level enforcement program in Cal/EPA
No presence of enforcement at Executive Staff	Raise reporting relationship to Director	
114 Personnel Years (PY) dedicated to enforcement	117 PY dedicated to administrative/civil enforcement	
17 PY dedicated to criminal enforcement	42 PY dedicated to criminal enforcement	Only Cal/EPA program with sworn peace officers.
No fraud capability	Creation of forensics fraud unit (6 py)	
<i>Program Broadening</i>		
Enforcement Stings # Of cases = 32	Enforcement Stings # Of cases = 8	Lake Tahoe, Angora Fire
Landfill Load-Checking Initiative	# Of infractions = 20	
Consumer products enforcement # Of cases = 0	Consumer products enforcement # Of cases = 700+	Canvas shopping bags success – 100% compliance Lead in children’s jewelry - 317 tainted products pulled from shelves
Environmental Justice (EJ) Community Enforcement # Of cases = 19	EJ Community Enforcement # Of cases = 16	Shut down Romic (Ultimate penalty & permit revocation)

Key Enforcement Statistics – Side-By-Side Comparison

	<i>Before Reorg 2005/2006</i>	<i>After Reorg 2007/2008 Year to Date 5/1/08</i>
# Of criminal investigations	136	199
# of search warrants served	11	9
# of arrests	9	66 Includes arrest made for State Contractor's Licensing Board
# of targeted investigations	4	2
# of border truck inspections	2,000	2071
# of E-waste inspections	61	155
# of fraud inspections	0	44
# of complaint inspections	52	76
# of transporter inspections	111	272
# of hazardous waste facility and generator inspections	119	153
# of EJ community inspections	90	111
# of financial assurances inspections	89	71
# of product inspections	0	700+
# of admin cases	81	63
# of civil case referrals	9	30
# of criminal case referrals	41	46
# of permit revocations	0	1
# of task forces supported	46	50
# of penalties	\$2.5 M	\$3.7 m
# of drug lab emergencies	450 approx	352
# of off road emergencies	85 approx	115
# of post ER removals	None	2500
Tons of hazardous waste kept from being illegally disposed due to stings	Unknown	56 tons
Non-compliant products removed	None	>2 million non-compliant grocery bags removed 317 tainted jewelry items removed – total volume removed is unknown
Used Oil Facilities	46%	39%
Refineries	67%	83%
Universal Waste Operators	44%	44%
Hazardous Waste Operators	32%	50%
Transporters	47%	50%
Financial Assurance Filers	67%	71%
Metal Finishers	Unknown	33%
Recyclers	Unknown	34%
Collectors	Unknown	Unknown
Retailers	Unknown	Unknown
Jewelry Suppliers	Unknown	Unknown

	<i>Before Reorg 2005/2006</i>	<i>After Reorg 2007/2008 Year to Date 5/1/08</i>
Packaging Distributors	Unknown	Unknown
RoHS Electronics Suppliers	Unknown	Unknown
Automotive Switches	Unknown	Unknown
Perchlorate Handlers	Unknown	Unknown
Contaminated Property Owners	Unknown	Unknown
Institutional Control Owners	Unknown	Unknown
Groundwater Treatment/Monitoring Owners	Unknown	Unknown
Return to Compliance Rates		New Metrics for Tracking
% of Inspection Reports on Time		New Metrics for Tracking
% of Enforcement Cases initiated w/in 240 days		New Metrics for Tracking
% of On Time Emergency Responses		New Metrics for Tracking

The reorganization enabled the Department to take on enforcement work based on new statutes and the need to shift enforcement to the highest impacted areas (1-4) as well as to continue its core regulatory oversight work (5).

1. Toxics in Consumer Products (e. g., lead in jewelry)
2. Enforcement/Emergency Response stings
3. Environmental Justice /Community-led enforcement priorities
4. Compliance Assistance
5. Regulatory oversight of Ewaste, permitted facilities and transporters

1. In response to the Lead in Jewelry Law, which took effect in September 2007 the Toxics in Consumer Products Team was established in October 2007 to focus on developing and implementing strategies to enforce consumer products assigned to DTSC for regulation, such as the Toxics in Packaging Prevention Act and the Lead in Jewelry statutes.

2. DTSC rendered valuable assistance to those areas impacted by extensive wild fire damage in Northern and Southern California. The Enforcement and Emergency Response Program responded to the devastating and destructive wildfires in Lake Tahoe's Angora Fire Area located in Northern California and the San Diego and San Bernardino fire areas in Southern California. Joining other state, county and local agencies DTSC provided technical assistance and a commitment to safeguard the property of residents to deter scammers and provide environmental protection. The Office of Criminal Investigation increased its use of criminal stings to uncover and prosecute illegal transporters of hazardous materials/ waste. As a result of our efforts involving a team of responders, inspectors, and investigators several enforcement actions were taken against contractors and businesses who were illegally transporting and disposing of hazardous materials/waste.

3. Two examples of Environmental Justice cases by DTSC were Romic Environmental Technologies and Jordan High School.

While rare and the most severe of penalties, in August of 2007 DTSC and Romic Environmental Technologies Corporation entered into a Stipulation and Order, which forced Romic to cease all operations and begin final closure of its East Palo Alto facility. The Romic East Palo Alto facility is

located in an area of Environmental Justice concern. This facility was authorized to store hazardous waste in containers and tanks as well as to treat hazardous waste via a wide range of processes such as distillation, fractionation, neutralization, and fuel blending.

Jordan High School is located next to and separated from S&W Atlas Iron and Metal Company, Inc. by a thin wall. DTSC responded to an explosion at S&W Atlas Iron and Metal Company, Inc. and discovered two waste piles containing hazardous waste as well as contamination of the Jordan High School adjacent field. After extensive work by the Enforcement and Emergency Response Program staff, remedial action was undertaken to improve the Jordan High School field by removing approximately 2000 tons of contaminated soil from the field. The wall has been removed and will be replaced by a modern one to separate Jordan High School from the remediated Atlas site.

DTSC also initiated community-based Environmental Justice Enforcement Program. Meetings were held with various local citizens' environmental community groups and public officials from Environmental Justice areas of concern to seek input on their concerns. Workshops were held and tours of these areas were conducted in order for the citizens and officials to specifically identify issues and concerns with environmental problems to Enforcement and Emergency Response personnel. Inspection/enforcement follow up has begun on issues, concerns and complaints regarding some entities identified through this process.

4. DTSC created a Compliance Assistance Team to conduct a five-year effort to identify compliance issues for facilities statewide. This Team will have the ability to identify those sites and entities within the jurisdiction of the DTSC that have experienced high levels of past non-compliance of hazardous waste laws and regulations thus posing increase risks and impacts to public health and the environment. The Team's goals are to increase the level of compliance for facilities and entities identified as part of their project scope, ensure that compliance issues are addressed in a timely manner and provide outreach, training, pollution prevention information, and compliance assistance to these facilities.

5. DTSC continued its regulatory oversight of the 162 facilities with a hazardous waste permit under the federal Resource Conservation and Recovery Act (RCRA) or California hazardous waste laws, the ~53 transportable treatment units, the ~850 licensed hazardous waste transporters as well as some generators.

During 2007, the Department levied fines and penalties in 57 regulatory cases, bringing in a total of \$2,854,899. Six major cases resulted in the bulk of the money. These major cases are detailed below:

- **West Contra Costa County Sanitary Landfill** was found to have problems with the leachate collection and treatment system. Both are supposed to prevent hazardous liquids from entering the adjacent San Francisco Bay. In September 2007, DTSC and Republic Services, which is the parent company for the sanitary landfill, reached a consent agreement for a \$725,000 penalty, and agreed to repair problems and apply for a new permit.
- **ExxonMobil** entered a consent order in January 2007 to resolve the discharge of selenium-contaminated wastewater from the company's Torrance refinery. ExxonMobil has installed a selenium removal treatment unit and agreed to a \$625,000 penalty.
- **Joslyn Sunbank Co. LLC** in San Luis Obispo County was cited for illegal treatment of wastes, structural weaknesses in equipment and storage of incompatible wastes together. In March 2007, a final judgment and permanent injunction pursuant to a stipulation was entered in Superior Court in the county. The penalty amount was \$495,000.

- **Heraeus Metal Processing Inc.** of Santa Fe Springs was cited for replacing hazardous waste tanks without DTSC approval and other violations. Penalty amount: \$140,979.
- **DeMenno Kerdoon Environmental** of Compton improperly stored more than 1,000 drums of hazardous waste in unpermitted areas. Penalty amount: \$120,000.
- **Quemetco Inc.** of the City of Industry was cited for storing hazardous waste lead slag in unauthorized areas, specifically rail cars, and failing to maintain its batch house building. Penalties totaled \$70,000.

DTSC is currently revising its Enforcement Response Policy as well as other internal Policies and Procedures in order to align with our new organization. The policies will be finalized by February 2009.

DTSC has developed an Inspection Streamlining Team and a Database Team in order to address challenges the Enforcement Program encounters in implementing its Program.

Information on compliance and enforcement expenditures is generally integrated into the program. Some, but not all, of the activities related to enforcement are tracked within the program expenditures.

DTSC is special funded but also receives funds from the Hazardous Waste Control Account , General Fund and grants from USEPA.

B) What the Reported Data Tells Us

Data Characteristics:

Data Quality: Enforcement Data collected in 2007 was compiled from four different databases. As discussed in Strengthening our Enforcement Program DTSC underwent a major reorganization. Five Access databases and an Envision database were used for Office of Criminal Investigations, California–Mexico Border Program and the CUPA Program. An Inspection, Complaint and Enforcement (ICE) database was used for hazardous waste inspections, transporters and E-waste inspection and enforcement activity within the Program. The data reported from the ICE database was of relatively high quality with an estimated error rate of between 5 and 20 percent depending on the particular data elements in question. This accuracy is estimated from the review of data for specific areas of data collected (such as enforcement data where a settlement was achieved or a court ordered settlement was established). Data for inspections, violations detected from inspections, and enforcement actions taken regarding those inspections was subjected to an intensive data cleanup during the last several years for data from calendar year 1999 to date. It is anticipated that this data is 90 to 95% accurate based on this cleanup.

Data for complaints, violations detected from complaints, and enforcement actions taken regarding violations determined by the investigation of those complaints is significantly less accurate.

The three Access data bases were used for Office of Criminal Investigations (OCI), California –Mexico Border Program and the CUPA Program had a 90 to 100% accuracy rate.

Timeliness: Inspection, violation and enforcement data is reported to US EPA via an upload of flat files to RCRAInfo, the federal database. In 2007 the data was not uploaded on a quarterly basis. US EPA would prefer that this data be uploaded on a monthly basis. However, monthly uploading is staff intensive requiring the efforts of two headquarters staff for at least two days in preparing flat files for transmission to US EPA and the efforts of three regional staff to enter and correct data entry for the

previous month by a specified deadline. The data entry, quality review, and data cleanup process needs to be streamlined before DTSC commits to a monthly upload frequency.

Information reported for the three Access databases used for Office of Criminal Investigations, California–Mexico Border Program and the CUPA Program was entered and reported timely on a monthly basis. The timeliness is very good because staff diligently submit information on time. Data quality in 2007 was very good.

Program Limitations: Several limitations were identified in 2007 that resulted from having four different databases within the Enforcement Program. As the Program underwent reorganization, different programs maintained separate enforcement databases. Until such time as this consolidation takes place, a data user must consult with three different units within DTSC to obtain a complete picture of State inspection, compliance, and enforcement efforts regarding any single facility or business or to capture enforcement statistics regarding DTSC enforcement activities. Not all databases can generate comprehensive data that can be reported to various Agencies or the public. None of the five databases yet include our new product enforcement data.

DTSC is in the process of consolidating and merging all of its separate internal enforcement databases to a single platform to allow the development of a more comprehensive picture of compliance and enforcement in one place. This will allow comprehensive reporting on Performance Measures, strategies and results. This will also allow the Enforcement Program to generate ad hoc reports if needed.

Data Compatibility with RCRAInfo: The existing ICE data system is not completely compatible with the RCRAInfo data system. These incompatibilities result in data elements that do not readily translate to RCRAInfo data fields. These issues of incompatibility are the result of:

- The State enforcement process involves options that the federal system does not include. Therefore, there is no comparable way to report certain State enforcement actions in RCRAInfo.
- The original ICE data system has some design limitations that were not identified during development.
- The federal data system has been and continues to be modified after the ICE data system was programmed. Not all of these changes can be accommodated in ICE without reprogramming the data system.

The Access databases are not compatible with the RCRAInfo data system. All of OCI's tracking data is currently maintained in an Access database which has been determined to be inadequate for our current and future needs. OCI is currently exploring the possibility of converting its database into Envirostor which is in use by other programs within the department. This database is envisioned to accommodate all of OCI's case tracking and product enforcement needs.

In addition to these two database, CUPA inspections and enforcement actions taken by the State in those locations where the State is the CUPA are housed in a third data system that stores CUPA data from all State CUPAs. Future efforts to link CUPA (State or local) data with DTSC data may be explored as development of the Cal/EPA Unified Program Data System continues in 2008. At present, the CUPA data will be maintained on a separate Envision database system.

DTSC has identified these issues and intends to correct this problem during the 2008/09 Fiscal Year. DTSC is currently facing challenges regarding a comprehensive data system which will manage and report data collected for the Enforcement and Emergency Response Program.

C) How the Agency Will Use This Information

In 2007 DTSC's Enforcement program initiated work to identify specific goals and objectives that would form the basis for development of the program's performance measures and strategies necessary to achieve the program's goals. The performance measures are intended: to provide a benchmark of progress illustrating tangible evidence of the program's impact on reducing environmental and public health harms; to provide data that allows the program to make resource decisions; to demonstrate need for additional resources and support for the program; and, to communicate to stakeholders how and where the program provides services. Performance measures are indicators of the degree to which our products and/or services meet our specific mission and provide a framework to develop strategies to achieve our vision, outcomes and results. Measurable targets, or metrics, must demonstrate increased compliance, ensuring DTSC meets statutory and regulatory deadlines. The metrics should also demonstrate improved efficiency, staff growth and development, and program effectiveness. Data collection will be key in order to analyze and measure progress.

Data compiled for this report has been collected from several data sources. Broader DTSC goals will result in the Enforcement and Emergency Response Program to become a data-driven, performance-based organization and cause formerly disparate and inaccessible databases to become united and transparent. DTSC has recently updated its Strategic Plan to cover 2008-2013, and developed its first set of department-wide performance measures. DTSC is now focused on reforming its data collection and analysis to enable performance-based management. The draft plan will integrate enforcement strategies into the environmental priorities identified to protect public health and environment for all Californians.

In 2007, DTSC has used the data collected in the ICE data system to analyze the compliance rate of different facility sectors to determine rates of compliance. These rates of compliance can then be used to focus DTSC inspection resources on those facility sectors that have the lowest compliance rates. DTSC has also analyzed the data collected to determine the rate at which DTSC staff complete the inspection reports for facilities that have been inspected within the statutory requirement of 60 days and other internal timeframes for administrative actions. This data will be used for Performance Measures Goals and Objectives.

The facility sector data is in a transition period as DTSC seeks to improve the quality of the data regarding facility sectors. New sector definitions will be developed and changes in data entry implemented to better define facility sectors by the third quarter of calendar year 2008. This will result in more accurate data retrieval regarding sector information and provide identification of a larger number of facility sectors for evaluation. The newly identified sectors will not be entirely consistent with previously identified sectors. For this reason, data from before the new sector identification will not be comparable with data collected regarding sectors after the new sector data fields are implemented.

OCI maintains an automated case tracking system that contains information on all cases investigated by OCI including current case inventory and staff assignments, District Attorney, United States Attorney and Attorney General referrals, warrants and arrests. This information also used for Reports to the Governor and the Legislature in biennial reports on the enforcement actions taken by OCI and the results obtained from those actions. With the assumption of responsibility for implementing enforcement

efforts involving Toxics in Consumer Products (jewelry and packaging), OCI has now been tasked with the development of a new database which will accommodate those activities.

II. THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL'S ENFORCEMENT PROGRAM

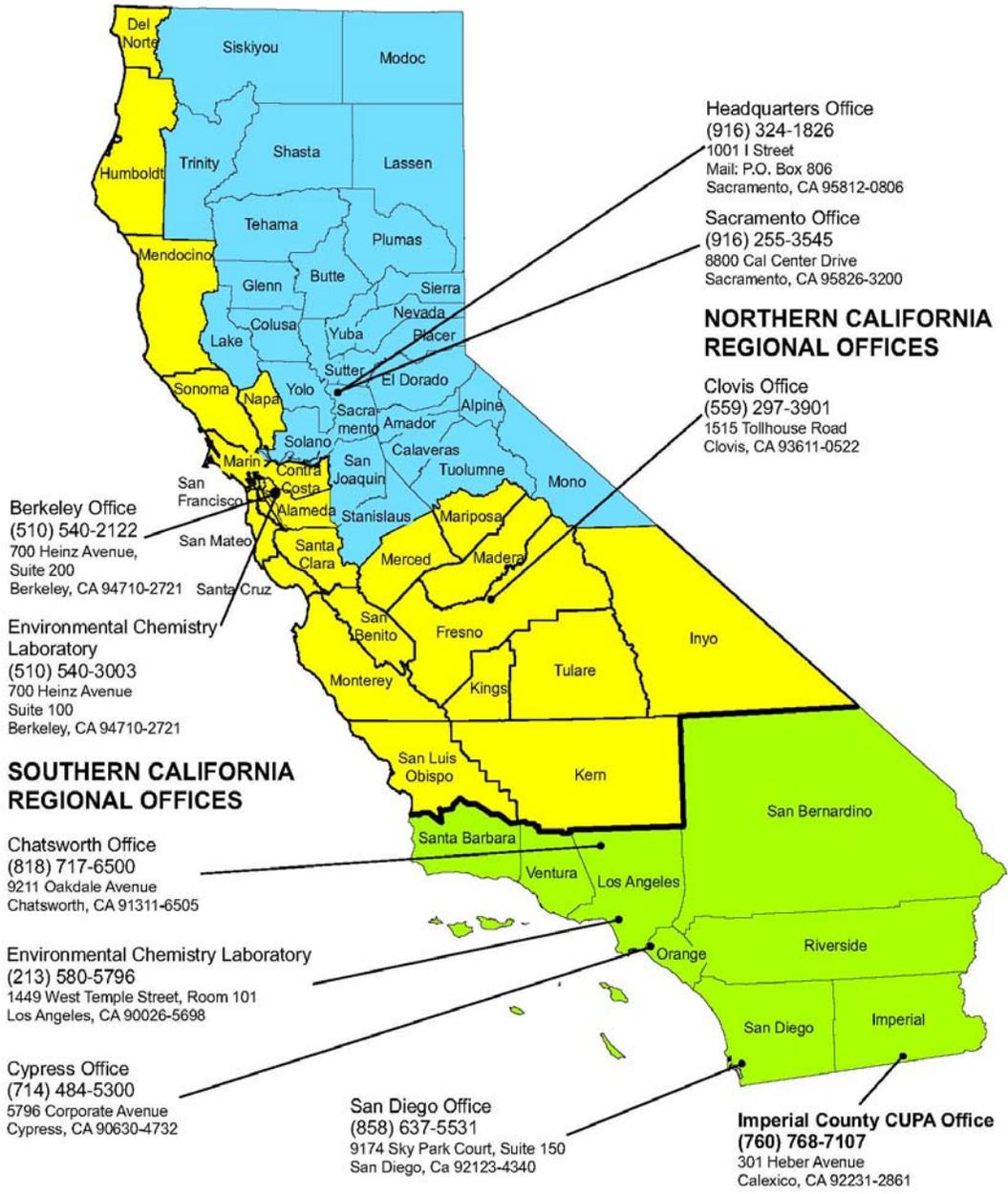
A) Overview

The mission and goals of DTSC are to protect California and Californians from exposures to hazardous materials/wastes. DTSC operates programs to:

- Restore the health of the ecosystem and communities from toxic exposure and improper hazardous materials management by overseeing site cleanups.
- Ensure safety to the public and environment from releases of hazardous waste by ensuring that those who generate, handle, transport, store and dispose of material and wastes do so properly.
- Take enforcement actions against those who fail to manage hazardous materials appropriately.
- Test and ensure safety of products in commerce that contains certain toxic ingredients.
- Research and promote means of preventing pollution thru innovative science, technology and green business practices.
- Evaluate soil, water and air samples taken at sites, and develop new analytical methods.
- Practice other environmental sciences, including toxicology, risk assessment, and technology development.
- Engage and include the public in DTSC's decision-making.

DTSC has eight offices and two branches of the Environmental Chemistry Laboratory throughout California and has approximately 1,000 employees including scientists, industrial hygienists, engineers, geologists, toxicologists, attorneys, environmental planners, public participation specialists, criminal investigators, support staff and various administrative specialists. A map of DTSC locations are identified on the next page.

Department of Toxic Substances Control



Organizational Structure

DTSC’s Strategic Plan has identified four Core Programs through which the responsibilities of the department are carried out and nine Support Programs that support and enable those core activities. The Core Programs are: Enforcement and Emergency Response, Site Cleanup, Pollution Prevention and Hazardous Waste Management.

2007 Department of Toxic Substances Control Executive Leadership Team

Director
Maureen Gorsen

Vision/Direction:

Office of Policy
Legislative Director
Rich Brausch

Data and Indicators
Office
Steve Hui

Chief of Staff
Norm Riley
(Acting)

Chief Deputy Director
Leonard Robinson

Chief Scientist
Jeff Wong

Chief Engineer
Watson Gin

Office of
Civil Rights
Cheryl Artega

Implementation/Core Programs - Enforcement:

Deputy Director
Pollution Prevention and
Green Technology
Claudia Polsky

Deputy Director
Enforcement and
Emergency Response
Gale Filter

Hazardous Waste
Management
Permitting Teams

Deputy Director Brownfields
and Environmental Restoration
(Cleanups)
Maziar Movassaghi

Enterprise-wide Shared Services:

Deputy Director
Administrative/Fiscal
Vicki Vandergriff

Deputy Director
External Affairs
Shell Culp
(Acting)

Chief Counsel
Office of Legal
Affairs
Elizabeth Yelland

Chief Information
Officer/IT
Shell Culp

Chief Office of Human
Capital and Workplace
Innovation
Jim Marxen

Chief Environmental
Chemistry Lab
Bruce La Belle

Site Cleanup

Thousands of California properties, including former industrial plants, military bases, small businesses, and landfills, have been identified as having chemical contamination from previous land uses. DTSC is actively investigating or cleaning up over 1000 sites where releases of hazardous materials to soil, soil gas, groundwater, and surface water have been documented.

Pollution Prevention

The Pollution Prevention program of DTSC conducts research and promotes pollution prevention through scientific and engineering innovation and technology diffusion. It is also responsible for the evaluation and demonstration of innovative environmental technologies.

Hazardous Waste Management

Through permitting and development of high environmental and public health safety standards, DTSC provides for implementation of federal and state laws regarding hazardous materials. DTSC ensures that the hazardous materials/waste generated, treated, and transported in California is properly handled and disposed of to ensure the safety of public health and protection of the environment

Enforcement and Emergency Response

Mission Statement

To promote a healthier environment for all Californians through fair, consistent and timely enforcement.

The Enforcement and Emergency Response Program protects the health and environment of Californians by enforcing state and federal laws and regulations regarding toxic waste and materials. The goal is to stop those who are breaking environmental laws and violating regulations and to provide a strong impetus for compliance overall.

DTSC enforcement work is done primarily via inspections, monitoring, compliance assistance, training, and investigative activities and by quick response to emergency toxic-material situations that arise around the state. DTSC also provides environmental enforcement assistance to federal, local and other state officials and serves as the Certified Unified Program Agency (CUPA) in Imperial and Trinity Counties. In this CUPA capacity, DTSC Enforcement oversees permitting, administrative, and enforcement work in the two counties.

Enforcement and Emergency Response is responsible for ensuring that all Californians, without regard to color, national origin, or income are equally protected by environmental laws and regulations relating to toxic materials. In the Environmental Justice Enforcement initiative, DTSC's enforcement work is being expanding by reaching out and engaging members of communities that are particularly hard hit by environmental challenges.

Enforcement and Emergency Response Program Coordination

Description: The Enforcement and Emergency Response Program uses a variety of means to coordinate with other local, state, federal and national enforcement agencies. The participation in Environmental Task Forces is a major part of this coordination effort. The Enforcement and Emergency Response Program currently supports and attends 46 state, county, federal and regional task forces in California. In addition, DTSC is a member of the Border 2012 California/Baja California Waste and Enforcement Program Task Force, which conducts meetings and training in California and Mexico and the Western States Project.

In all of the task forces and groups mentioned, information is shared on a regular basis and all members cooperate and provide support in the investigation of violations. As needed, information is obtained from and shared with other states and with other countries, both through telephone conferences and calls, online data sharing through the Internet in addition to meetings. These methods also lead to the expansion and refinement of the Enforcement and Emergency Response Program's enforcement universe through the exchange of information.

DTSC, when appropriate, refers complaints for investigation to other state, local and federal agencies. When a criminal or civil investigation is completed, it is referred to the appropriate city attorney, district attorney, United States Attorney or Attorney General for prosecution. These complaints are often investigated in coordination with the appropriate Task Force.

In most instances, assistance is either obtained from or provided to other state, county or federal agencies in environmental investigations. In addition, multi-media investigations may involve obtaining cooperation from and rendering assistance to other state Boards, Departments or Organizations.

The Inspection and Compliance Process

In addition to stings, non-compliance is discovered and corrected by Focused Initiatives, complaints and compliance inspections. Focused Initiatives select one industry or activity such as plating shops or cyanide users, which are then inspected, brought into compliance or stopped from further operation.

A statewide complaint system has been created to triage and assign complaints for further investigation as warranted. There is a statewide toll free complaint number for the public to use. **TO REPORT ILLEGAL HAZARDOUS WASTE ACTIVITY, CALL THE WASTE ALERT HOTLINE AT 1-800-698-6942.** The public and other interested parties can use this system to file a complaint with DTSC. The complaint may be referred to outside federal, state or local agencies as appropriate. All of California has been divided into three regions and all complaints that come into DTSC are routed to the Supervising Criminal Investigator in each of these three regions for further processing and assignment.

Before any inspection, inspectors and/or investigatory staff review pertinent files, the past history of the business and any authorization or permit. Before the inspection begins, staff are required to obtain consent and, absent consent, to obtain an inspection warrant.

During inspection, staff examines the facility, take photographs and secure samples if necessary. Any violations are fully documented.

To maintain the level playing field and to clearly indicate what is required for compliance, after each inspection. Inspectors are required to issue a Summary of Observations if there are no violations which is then signed and dated by both the facility representative and the inspector. A Summary of Violations is issued if violations have been observed. Each violation is described to ensure that the owner or operator will understand the violation and the inspector cites the section number of the law, regulation or permit that was violated. For each violation listed, the inspector provides a detailed description of the actions the operator must take to correct the violation and come into compliance with the law.

After the inspection, the inspector meets with the facility operator and discusses all violations, observations and unresolved issues. If the operator provides convincing information or evidence that an apparent violation did not occur and the inspector concludes that it is not a violation, it must be deleted from the Summary of Violations. The inspector must inform the operator that a copy of the inspection report will be sent to the facility within 60 days of the inspection, that the operator may request a meeting to discuss the violations and proposed corrective actions described in the report, and that the operator will be required to submit a written response to DTSC describing the corrective action(s) taken.

B) Enforcement Program Components

Permitted Facility, Generator and Transporter Inspection Program

Description: DTSC identifies its enforcement universe in traditional and non-traditional or proactive ways. Facilities with a permit to handle, transport, treat, store or dispose of hazardous materials/waste are subject to regulatory oversight by DTSC. They are periodically inspected to assure compliance with the applicable laws and regulations.

DTSC enforcement work is done primarily via inspections, criminal investigations, monitoring, compliance assistance, training, and investigative activities and by quick response to emergency toxic-material situations that arise around the state.

DTSC is authorized by the federal government to implement the federal hazardous waste law (established by the Resource Conservation and Recovery Act or RCRA) in California. The main enforcement group within DTSC is the Emergency Response and Enforcement Program created in 2007 to improve enforcement efficiency, coordination, and consistency. The Program consists of approximately 164 employees. The Enforcement and Emergency Response Program inspects and takes enforcement action against both RCRA and California-only hazardous waste facilities, some generators and hazardous waste transporters who must get authorization to operate from DTSC.

The Enforcement and Emergency Response Program budget is approximately \$3.47 million for conducting the inspections and enforcement required by RCRA as well as for operating the California-Mexico Border Program components. In return, DTSC reports to US EPA through three mechanisms: data submittals, written reports and periodic meetings. Data concerning inspections and enforcement actions is collected in the Enforcement and Emergency Response Program's data system and periodically uploaded to US EPA's data system.

U S EPA provides oversight and evaluation through several mechanisms. US EPA periodically accompanies DTSC staff on inspections in order to evaluate their field capabilities. U S EPA reviews two self-assessments provided by the state and responds in a formal report both to an End of Year report as well as the periodic meetings discussed above. Every three years U. S. EPA conducts an extensive, in-depth review of California's program through a process known as the State Framework Review. This is a new Federal process and California was evaluated for the first time during 2007. California received extremely positive comments from U S EPA in this review, called the State Framework Review Report.

As noted in the chart below, California had 162 hazardous waste businesses with a permit from DTSC to treat, store or dispose of hazardous waste in 2007. DTSC is the sole entity, which can inspect these facilities to ensure they are following their permit requirements. The Program also conducts financial reviews of these facilities and electronic waste facilities to make sure they maintain the almost two billion dollars in financial assurance required to clean up or close them in any eventuality.

HAZARDOUS WASTE BUSINESSES REGULATED BY DTSC	
Facilities with a permit to treat, store or dispose of hazardous waste	162
Transportable Treatment Units	53
Hazardous Waste Transporters (approximate number)	850
Approved Electronic Waste collectors (approximate number)	615
Electronic Waste recyclers and dismantlers participating in system	63

There are three landfill sites in California for the regulated, safe burial of hazardous materials/waste: Chemical Waste Management in Kettleman Hills, Clean Harbors in Buttonwillow and Clean Harbors in Westmorland.

In 2007, over two and one half million tons of hazardous waste (2,531,062 tons) was produced in California and transported by the approximately 925 California-authorized hazardous materials/waste haulers using 415,198 hazardous waste manifests. DTSC uses these hazardous waste manifests to track

each shipment of hazardous waste from the point of origin to its safe disposal. DTSC is the sole entity that can inspect these hazardous materials/waste haulers. In 2007, we conducted 60 transporter inspections.

CALIFORNIA HAZARDOUS WASTE IN 2007	
Tonnage of hazardous waste produced	2,531,062
Number of registered hazardous waste transporters (approx)	850
Hazardous waste manifests used	415,198

To help maintain a level playing field in all its enforcement activities, DTSC maintains a public internet web site which provides access to an extensive range of Fact Sheets, Publications forms and enforcement program information as well as the pertinent laws and regulations. In addition, DTSC maintains Regulatory Assistance Officers based in three regional offices in Sacramento, Cypress and Chatsworth who offer statewide public and industry assistance.

Program Metrics

Data Characteristics

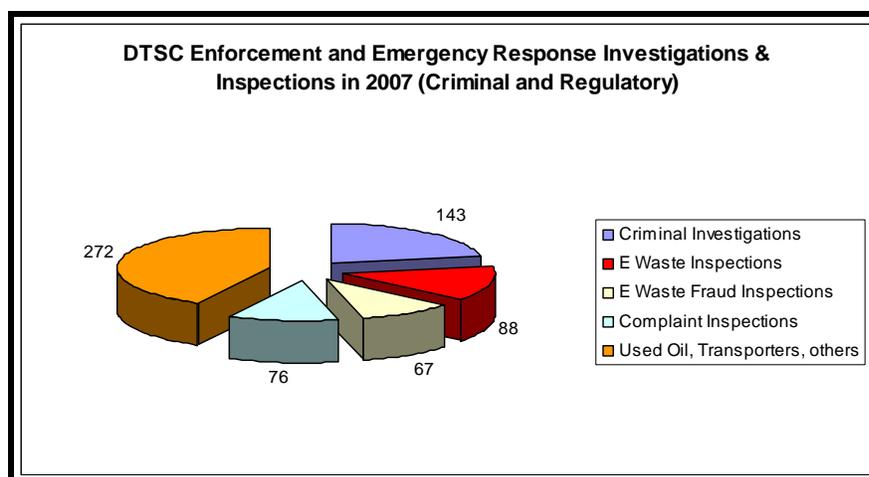
The Enforcement and Emergency Response Program collects data for its complaint investigations and permitted facility, transporter, transportable treatment unit, generator, electronic waste recycler and collector inspections in its Inspection, Complaint and Enforcement database also known as ICE.

In 2007, DTSC received a two-year, \$200,000 grant to develop and improve the ability to send its data (from ICE) to the federal RCRA database electronically. The Enforcement and Emergency Response Program continues to work with U. S. EPA regarding various data translation problems and anticipates resolving these problems in 2008. DTSC plans to consolidate its data into one comprehensive database in the future for reporting and tracking.

Program Inputs

The number of staff conducting these inspections is not a set number as staff may work on more than one enforcement component.

Program Outputs



Program Outcomes

The Enforcement and Emergency Response Program has begun to organize its universe of inspectable facilities into various industry sectors so it can monitor compliance by these sectors. The following tables show compliance levels of some industry sectors handling hazardous waste in the state:

Used Oil Facilities

In 2007, the Department had a 50% checkup rate on this group of hazardous waste handlers:

<i>Number of Used Oil Facilities Registered in the State in 2007</i>	<i>Annual Average Number of Used Oil Facilities Registered from 2005-2007</i>	<i>Percentage of Facilities With `Compliance Monitoring Actions' In 2007</i>	<i>Percentage of Facilities in compliance in 2007</i>
36	33	50%	39%

Refineries

The number of refinery facilities in the state in 2007 remained steady at 27, with few violations:

<i>Number of Refinery Facilities in the State in 2007</i>	<i>Annual Average Number of `Compliance Monitoring Actions' Undertaken 2005-2007</i>	<i>Number of Refinery Facilities Cited With Violations in 2007</i>	<i>Percentage of Refinery facilities in compliance in 2007</i>
27	19	2	83%

Hazardous Waste Transporters

<i>Number of Transporters licensed in 2007</i>	<i>Number With `Compliance Monitoring Action' in 2007</i>	<i>Number of Transporters Cited With Violations in 2007</i>	<i>Percentage of Transporters in compliance in 2007</i>
850	60	30	50%

Universal Waste Operations

California added 17 universal waste facilities in 2007, and DTSC boosted its monitoring:

<i>Number of Universal Waste Facilities in 2007</i>	<i>Number of Universal Waste Facilities inspected in 2006</i>	<i>Number of Facilities Cited With Violations in 2007</i>	<i>Percentage of Universal Waste Facilities in compliance in 2007</i>
134	117	51	34%

The Electronic Waste Team and Forensic Fraud Team

Description: The Electronic Waste Team conducts inspections of electronic recyclers, dismantlers; and waste collectors and conducts follow up enforcement. Recyclers and dismantlers who receive money from the Electronic Waste Fund for these activities are inspected yearly while the collectors are inspected periodically. The Team has also been actively involved in education, training and compliance assistance for E-Waste facilities. The Program coordinates with the Integrated Waste Management Board on some of its activities such as the Facility Reimbursement Program. As a result of the increase in our Electronic Waste Collectors universe DTSC has created an Electronic Waste Fraud Unit to investigate activity related to Electronic Waste Fraud.

DTSC added a Forensic Fraud Team to conduct forensic fraud investigations involving "Covered Electronic Waste" (CEW). DTSC and the California Integrated Waste Management Board jointly developed the concept of a multidisciplinary effort to detect and investigate fraud in the Electronic Waste Recycling program, which consists of over 550 collectors and 58 recyclers and processors of

electronic waste. The team is designed to work in conjunction with the Program inspections of electronic waste collectors, recyclers and processors. In 2007 the Program conducted 67 electronic waste fraud inspections and 88 electronic waste inspections.

Program Metrics

Data Characteristics

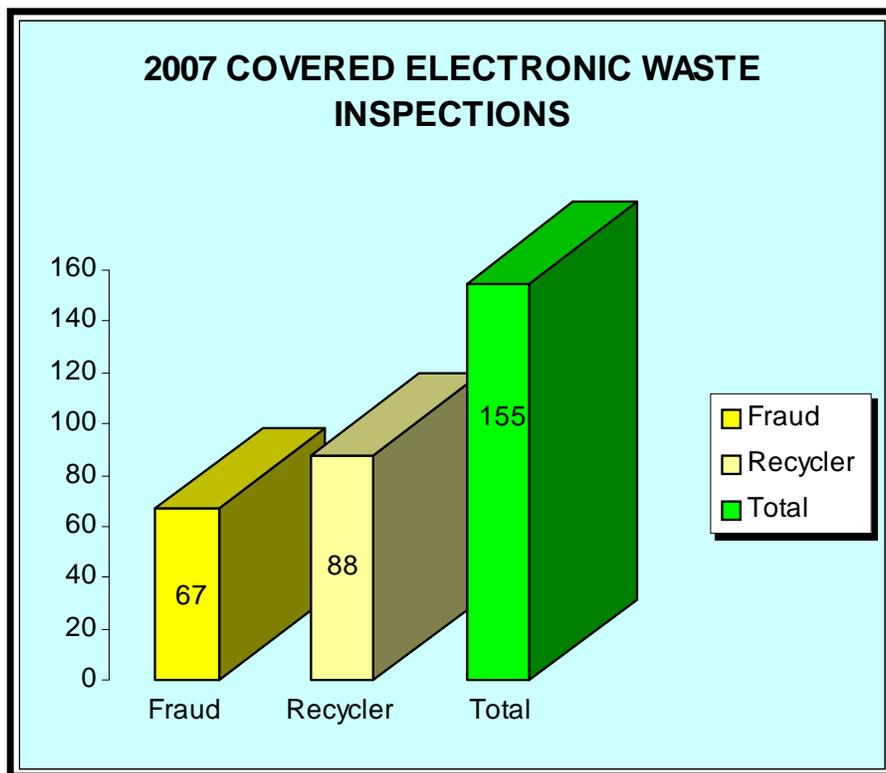
See page 71 section under Data discussion.

Program Inputs

There are 14 staff assigned to the Ewaste team to conduct inspections, enforcement and investigate complaints. The Forensic Fraud Team will consist of five members.

Program Outputs

Compliance rates for the recyclers and collectors of e-waste are the two main outputs that will be tracked and reported for the E-Waste Team and Forensic Fraud Team. To begin this effort baseline data will be established in order to report and track compliance rates for these entities. Some of the performance measures and goals identified for the E-Waste Team are to achieve increased compliance goals of 75% by December, 2009 for approved collectors and a 95% compliance goal by December 2009 for facilities participating in the SB 20 Program. Some of the performance measures and goals for the E-Waste Fraud team include identifying and classifying e-waste import/export requirements for the Collectors universe and providing a level playing field. Additional outreach, education and training will be required for facilities in order to maintain or increase compliance rates. A chart, which identifies total number of inspections conducted for the e-waste fraud and recyclers in California in 2007, is shown below.



Program Outcomes

Some of the performance measures and goals identified for the E-Waste Team are to achieve increased compliance goals of 75% by December 2009 for approved collectors and a 95% compliance goal by December 2009 for facilities participating in the SB 20 Program. Additional goals for both Teams include ensuring the universe of Recyclers and Collectors area identified and inspected.

Program Limitations

See page 75 under section Data Limitations.

California- Mexico Border 2012 Program

Description: DTSC investigates complaints and addresses conditions found in California's border region with Mexico as part of the California-Mexico Border 2012 Program. DTSC tracks hazardous waste in the border region, conducts truck inspections at the border crossings (Ports of Entry), and conducts training in the border region and in Mexico to promote compliance with the hazardous waste/materials laws and regulations. The Border Program is proactive in promoting hazardous materials reduction and implementing pollution prevention programs thru outreach and training. The Border Program also provides support to other state, local and federal agencies as well as to the State of Arizona.

Periodically, DTSC inspectors select truck traffic entering California from Mexico and classify the cargo while they are inspecting the shipments for compliance with California and United States environmental laws and regulations.

Border inspectors classify cargo headed north into California into three categories used by the U.S. Border Customs Service: RCRA & Non-RCRA hazardous waste, American Product Returned and Non-regulated Material. DTSC does not regulate the latter two. Over two thousand trucks were inspected in 2007 as part of this program at three Ports of Entry in California.

Program Metrics

Data Characteristics

DTSC collects data for its Border Program thru its Inspection, Complaint and Enforcement database also known as ICE. The "Border Flag" to EPA's Environmental Compliance History Online (ECHO EPA compliance data for border facilities) The public can now access the tool at <http://www.epa-echo.gov/echo/> and select either the "All Data," "Air," "Water" or "Waste" compliance searches where you will see a check-box for "Facility located near U.S. – Mexico Border" as a choice under the "Geographic Location".

Program Inputs

Two staff positions are devoted to this work.

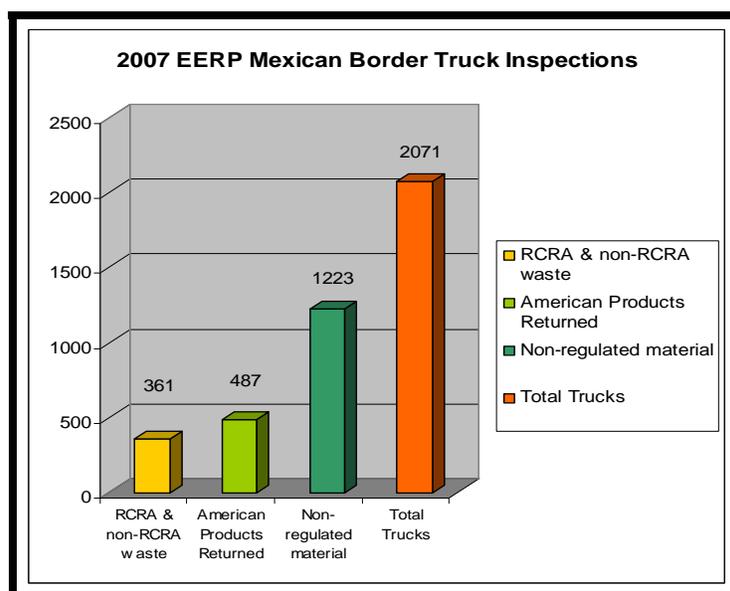
Program Outputs

Goal 6 of the California-Mexico Border 2012 Plan is to, "Improve environmental performance through compliance, enforcement, pollution prevention, and promotion of Environmental stewardship. Three objectives have been established to achieve this goal including, (1) increasing implementation of Environmental Measurement System and auditing, (2) identifying high risk entities along the border

and (3) reducing environmental impacts through a range of tools designed to Improve environmental stewardship; provide training and increase compliance assistance and enforcement practices.

In 2007, DTSC's Border Program in coordination with Imperial Certified Unified Program developed an Initiative to identify companies not currently in the regulatory system. The Initiative resulted in identifying additional facilities within the Imperial county Border region that are part of the Regulated community. These additional facilities resulted in an increased of approximately 20% more regulated facilities within Imperial County.

DTSC Future Performance Measures will include identification of number of businesses receiving training within the Border Unit, identifying number of trainings delivered, and identifying businesses that are high-risk entities within the border region.



Program Outcomes

As reported in 2006, the Border 2012 Program met the first objective and has increased by over 50% the number of entities along the border implementing voluntary compliance programs and/or self-audits. Mexico has identified and ranked all of the high risk facilities and has begun inspecting them, and United States Environmental Protection Agency (USEPA) has created better tools to identify and prioritize facilities on the U.S. side of the border.

DTSC will continue its training, education, outreach, industry and compliance assistance in the Border Region as part of its year 2012 objectives that include; to assess and respond to citizen complaints increased compliance assistance compliance incentives, compliance monitoring and enforcement to reduce the risks from non-compliant entities and encourage voluntary pollution prevention. DTSC will be conducting inspections, taking enforcement actions against violators and promoting pollution prevention in the U.S. and Mexico. Border 2012 Program has created some health studies that have been compiled for communities along the Border Region.

Program Limitations

Efforts to expand and improve inspections in the border region included additional border inspectors and cooperation with Customs/Aduanas at the border crossings. This effort would result in increased

environmental protection, level the playing field and promote increased compliance assistance within the Border region. In 2007, DTSC also added the Port of Entry at Tecate as an additional border crossing to conduct inspections and enforcement activities.

DTSC as the CUPA in Trinity and Imperial Counties

Description: Enforcement and Emergency Response also provides environmental enforcement assistance to federal, local and other state officials and serves as the Certified Unified Program Agency (CUPA) in Imperial and Trinity Counties. Cal/EPA, exercising its authority, designated DTSC as the CUPA for these two counties beginning January 1, 2005. In this CUPA capacity, DTSC Enforcement oversees permitting, administrative, and enforcement work in the two counties.

As the CUPA, DTSC is responsible for implementing the six elements of the Unified Program (UP) as if it were any other local jurisdiction. The purpose of the UP is to consolidate the administration, including permits, inspections and enforcement, of six environmental programs formerly administered by various State and County agencies as listed: Hazardous waste generators and onsite treatment facilities authorized under the permit-by-rule conditionally authorized and conditionally exempt tiers; spill prevention control and countermeasure plans for owners of above ground storage tanks; under ground storage tank program; hazardous material release response plans and inventories (business plans); California accidental release prevention program (CAL/ARP); and hazardous materials management plans and inventories.

Program Metrics

Data Characteristics

The Trinity and Imperial County CUPAs utilize the Envision database to track inspections, enforcement and fees that are billed to the regulated entities.

The Imperial CUPA also uses an Access database for tracking and reporting enforcement activity. See page 71 under Data discussion for more information on the CUPA Programs.

Program Inputs

The Trinity CUPA has one staff. The Imperial CUPA has eight (8) staff.

Program Outputs

Both the Trinity and Imperial CUPAs worked on identifying their universes of regulated facilities and inspected approximately 20% of their universes.

Program Outcomes

Cal/EPA has a triennial CUPA Evaluation Program. In 2007, the DTSC Imperial and Trinity CUPAs underwent their triennial Cal/EPA Evaluations. The Summary of Findings and Recommendations for the Imperial CUPA were: Satisfactory performance with some improvement needed. The target goals for Imperial were meeting the required inspections frequencies and preparing a county-wide area plan. The Summary of Findings and Recommendations for the Trinity CUPA was unsatisfactory performance with improvement needed. The target goals for Trinity included several areas such as fee collection, CALARP, not meeting inspection frequencies and failure to requests and obtain documents submitted from businesses.

Program Limitations

In order to comply with the Recommendations from the Imperial CUPA evaluation additional staff resources are needed in order to inspect the increased number of regulated facilities identified in the 2007 Initiative. All CUPA facilities must be inspected as part of its mandated three-year inspection schedule and annual inspections of facilities with under ground storage tank. As part of the Recommendations and findings from the Trinity CUPA a decision was made to raise its fees as the original fees would not support all program activity such as having resources to oversee and conduct inspections for the CALARP; and ensuring it can meet its three year inspection schedule and properly manage documents submitted from businesses.

CUPA-State Oversight Program

Description: In California, the primary authority for the inspection of hazardous waste generators (those that create the hazardous materials in the first instance) is assigned to local oversight agencies called the Certified Unified Program Agencies (CUPAs). CUPAs regulate businesses that manage and store hazardous materials and wastes. The CUPAs manage six programs including underground storage tanks, hazardous waste generators and business plans. There are 84 CUPAs in California of which two units exist within DTSC's Enforcement and Emergency Response Program perform and implement the CUPA functions for the Counties of Imperial and Trinity.

For the 84 CUPAs DTSC performs oversight functions including assisting them with regulatory interpretations or inspections and enforcement, and evaluating each CUPA on the hazardous waste portions of the CUPA program during the Cal/EPA triennial evaluation of each CUPA.

Program Metrics

Data Characteristics

CUPA oversight inspections are tracked in the ICE database. CUPA evaluations are tracked with an Excel spreadsheet.

Program Inputs

Four staff are assigned to work on CUPA oversight.

Program Outputs

DTSC conducted 17 oversight inspections and participated in 17 triennial evaluations of CUPAs.

Program Outcomes

Cal/EPA has identified goals and objectives for DTSC. Goals include: performs oversight functions, assisting CUPA statewide with regulatory interpretations on inspections and enforcement, and evaluating each CUPA on the hazardous waste portions of the CUPA program during the Cal/EPA triennial evaluation of each CUPA. Participating in various CUPA forum meetings and workgroups. Coordination with other local, state and federal agencies regarding the Program. Conducting oversight inspections.

Program Limitations

Generator oversight inspections and enforcement can result in complex cases that are resource intensive. See page 75. Under section Data Limitations.

Criminal Enforcement: Proactive Enforcement

Description: DTSC has an Office of Criminal Investigation (OCI) staffed with peace officers that investigate criminal complaints, conduct criminal search warrants, carry firearms and make arrests. These peace officers are required to attend and successfully go thru Academy training, background investigation, physical agility test, and psychological screening. Post certification also includes high level training.

Program Metrics

Data Characteristics

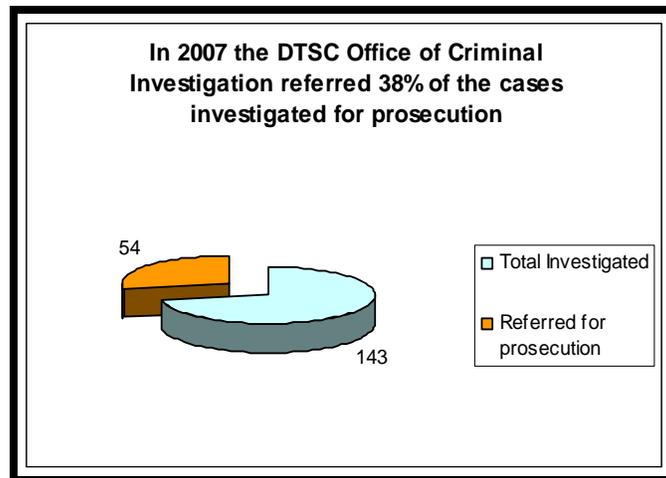
OCI maintains its own Criminal Investigations database.

Program Inputs

DTSC has more than doubled the OCI capacity from 17 to 43 and diversified its programs to include inspectors and a forensics team.

Program Outputs

After a few years of successful transporter stings we are broadening our emergency response and dumping context. The table identifies OCI cases investigated and referred in 2007.



In 2007, DTSC intensified its proactive law enforcement activity by the increased use of criminal stings. Stings are an effective method of uncovering non-compliance. Proactive stings are employed by OCI to locate those who are evading the hazardous materials/waste compliance universe by illegally transporting and disposing of hazardous waste. Up to the point they respond to the sting, these criminals continue to prosper by actively avoiding detection and inspection by state and local regulatory agencies creating unfair business competition for law abiding companies and posing a danger to public safety.

In 2007, stings were conducted in Los Angeles, San Diego, Yuba and El Dorado counties resulting in the capture of 44 illegal transporters who have been charged with violations of the Hazardous Waste Control Law. The efficiency and effectiveness of these widely publicized stings have received praise from environmental stakeholders, the regulated community and environmental prosecutors alike.

A proactive sting was used following the Lake Tahoe Angora Fire. OCI anticipated unscrupulous activity by scam artists who could illegally transport and dispose of hazardous waste by exploiting the misery of fire victims at their most vulnerable time. In coordination with the El Dorado County District Attorney's Office and the El Dorado County Sheriff's Department, OCI deployed a team of investigators to the area and successfully intercepted eight people attempting to illegally transport asbestos. OCI also actively supported 46 federal, state or county Environmental Task Forces.

Program Outcomes

Approximately 20.8 tons of hazardous waste was kept from being disposed of illegally through intervention in sting operations.

Program Limitations

See page 75. Under section Data Limitations.

Toxics in Consumer Products

Description: In October of 2007 DTSC formed the Toxics in Consumer Products Team (Team) within OCI. The goal of the Toxics in Consumer Products Team is to establish an all-encompassing strategy for the implementation and enforcement of all regulated consumer products within DTSC's purview. Laws such as the Toxics in Packaging Prevention Act and the Lead in Jewelry statutes. The Team works to ensure effective internal and external communication and coordination with affected programs and stakeholders as new products become subject to regulation. DTSC is also conducting environmental testing for Phosphodiesterase (PDE) in furniture and Phthalates in toys.

Program Metrics

Data Characteristics

A new database is under development to track and report activities for the Team.

Program Inputs

The number of staff conducting these efforts is not a set number but is drawn primarily from OCI.

Program Outputs

The Team identified a problem with reusable grocery bags sold at a Sacramento area grocery store that tested high for lead. When notified, the grocer's supplier removed the non-compliant grocery bags within 90 days and replaced them with environmentally safe bags.

To enforce the Lead in Jewelry statutes, the Enforcement and Emergency Response Program created the Lead in Jewelry team, with its first project being the Lead in Children's Jewelry statutes. The team defined its universe by selecting major retailers of children's jewelry. In the fall, this team purchased over 700 pieces of children's jewelry throughout California and sent them to DTSC's Environmental Crime Laboratories in Northern and Southern California for analysis. Sixteen children's jewelry items were found to contain excessive lead levels.

DTSC Staff Chemist Fatima Hussain prepares samples for analysis in the Berkeley office of the Environmental Chemistry Laboratory.



Program Outcomes

This new program will be reporting outcomes in Fiscal year 2008/2009.

Program Limitations

In the future, additional mandates will be added to the Toxics in Consumer Products target list, including Lead in Adult Jewelry in March of 2008 that will require additional resources.

Environmental Justice Enforcement

Description: DTSC maintains a commitment to Environmental Justice and pursues Environmental Justice Enforcement through the Enforcement and Emergency Response Program. DTSC has identified an Environmental Justice Enforcement Ombudsman to assist with community concerns and issues.

Program Metrics

Data Characteristics

See page 71. under Data discussion.

Program Inputs

Approximately three staff positions are used to conduct inspections, outreach and coordination for the Program. As stated above DTSC has an Environmental Justice Enforcement Ombudsman to assist with community concerns and issues.

Program Outputs

DTSC introduced its Los Angeles Environmental Justice Initiative to community representatives during a two-day environmental justice tour and workshop held in City of Maywood. The event (July 31, and August 1, 2007) was sponsored by Pacoima Beautiful and Felipe Aguirre, Mayor of Maywood. The tour provided Enforcement and Emergency response staff with an opportunity to listen and view sites from the perspective of city officials and community residents. The Los Angeles Environmental Justice Initiative focuses on increased enforcement efforts, community communication and collaboration efforts.

Participants toured sites in the cities of Pacoima, Van Nuys, the City of Industry, and Maywood. During the tour, the Pacoima Beautiful organization gave a presentation on the efforts of the community activists and residents to identify environmental problems and work with regulators and city officials to develop workable solutions. On August 1, 2007, an Environmental Justice Workshop was held at the Maywood City Hall. Environmental and community groups attending the two-day event included: Action Now; The Asian Pacific Environmental Network; California Communities against Toxics; The California Environmental Rights Alliance, Coalition for a Safe Environment, *Comite Pro Uno* and Del Amo Action Committee. A number of proposed Action Items were developed during the discussions.

A second workshop was held at the UCLA Environmental Law School on Thursday, November 15, 2007. Representatives of three regulatory agencies participated in a panel discussion regarding how the agencies receive citizen complaints, how the agency responds and the affect of citizen complaints on their agency's work.

Specific accomplishments in the area of Environmental Justice Enforcement included action taken at Romic Environmental Technologies Corporation in East Palo Alto, the West Contra Costa Sanitary Landfill and Jordan High School in Los Angeles County are discussed below.

- **Romic Environmental Technologies:** In August of 2007, DTSC and Romic Environmental Technologies Corporation entered into a Stipulation and Order, which forced Romic to cease all operations and begin final closure of its East Palo Alto facility. The Romic East Palo Alto facility is located in an area of Environmental Justice concern. This facility was authorized to store hazardous waste in containers and tanks as well as to treat hazardous waste via a wide range of processes such as distillation, fractionation, neutralization, and fuel blending.

DTSC issued Romic an enforcement order in May 2007, directing the facility to cease certain operations and commence partial closure. This enforcement order was ultimately settled in August 2007 via a Stipulation and Order, which forced Romic to cease all treatment and storage activities and to commence full closure at its East Palo Alto facility.

- **West Contra Costa Sanitary Landfill:** In September of 2007, DTSC entered into a Consent Agreement with West Contra Costa Sanitary Landfill (WCCSL) located in Richmond and Republic Services, Inc., its corporate parent, to settle alleged violations at the site. WCCSL and Republic agreed to a total monetary settlement of \$725,000. This includes penalties of \$325,000, and \$200,000 in reimbursement for Department costs. The remaining \$200,000 is apportioned to several Supplemental Environmental Projects, including \$50,000 to the Environmental Protection Prosecution Fund, \$50,000 to the Environmental Education Account of Cal/EPA, \$50,000 to The Watershed Project, and a \$50,000 credit to put on electronic waste collection events. DTSC found extensive problems with the facility's leachate collection and treatment system. Many of the extraction wells did not function, their treatment system was often down, and the level of leachate in the closed hazardous waste portion of the landfill was very high. DTSC issued an Enforcement Order in February 2006, which included a finding of imminent and substantial endangerment, requiring them to take steps to address the high leachate levels, including repairing wells and pumps, adding extraction and monitoring wells, and repairing/upgrading their treatment system. Since issuance of that Order, DTSC has been working with the facility to implement these repairs and upgrades, as well as explore of apparent problem areas and develop solutions (notably the CAMU). This settlement puts the facility on a clear track to compliance and a more protective future. A new permit is also in process, which will carry this improvement forward for the next decade.
- **Jordan High School:** is located next to and was separated from S&W Atlas Iron and Metal Company, Inc. by a decrepit wall. DTSC responded to an explosion at S&W Atlas Iron and Metal Company, Inc. and discovered two waste piles containing hazardous waste as well as contamination of the Jordan High School adjacent field. After extensive work by the Enforcement and Emergency Response Program staff, remedial action was undertaken to improve the Jordan High School field by removing approximately 2000 tons of contaminated soil from the field. The wall has been removed and will be replaced by a modern one to separate Jordan High School from the remediated Atlas site.

Program Outcomes

DTSC is conducting complaint inspections and enforcement and follow up for community issues and concerns identified during Workshops and tours. DTSC plans to deliver training to the community. DTSC will track and report data obtained as a result of this effort.

Program Limitations

DTSC will need to establish baseline data for this program in order to track and report Performance Measures and Results. See page 71 under Data discussion.

Compliance Assistance Team

Description: The Enforcement and Emergency Response Program created a Compliance Assistance Team (CAT) to embark on a five-year effort to identify compliance issues for facilities statewide. This Team will have the ability to identify those sites within the jurisdiction of the DTSC that have experienced high levels of past non-compliance of hazardous waste laws and regulations thus posing increase risks and impacts to public health and the environment. Some sites will be identified in Environmental Justice areas. These sites may have historically been cited for administrative, civil and/or criminal violations. This criterion will be used to target areas and specific sites/facilities in coordination with data gathering, research on past inspections, performing audits and feedback from community representatives. Members of this Team will consist of DTSC inspectors, investigators, lab chemists, attorneys, trainers, environmental auditors, public participation and pollution prevention staff, data manager, and toxicologist. The Team will ensure that appropriate compliance issues are addressed and solutions implemented in a timely manner.

The team will ensure that facilities are provided adequate outreach, training and compliance assistance regarding pollution prevention, green technology and best management practices to comply with hazardous waste laws and regulations. The Team will track and monitor results of the inspections conducted by the Enforcement and Emergency Response Program in order to identify opportunities to increase compliance with environmental laws and regulations. The CAT goals and objectives are to identify a facility sector within an Environmental Justice area and set a timeline of approximately 12 to 18 months to obtain an increase compliance rate for that sector thru education, outreach, best management practices and pollution prevention. The Team is currently working on this effort. The Team will use for its performance measure and goals to increase compliance rates for a particular sector within an identified time line.

Program Metrics

Data Characteristics

Inspections are to be conducted as part of this effort will be tracked in the ICE database.

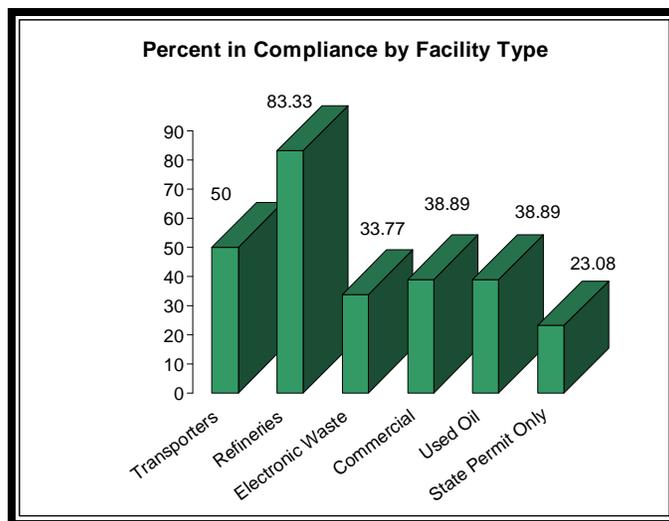
Program Inputs

The Team consists of 12 staff.

Program Outputs

The Team will report percentage of increased compliance obtained for the sector identified within the 18 to 24 months period.

The following chart depicts compliance rates by facility type for 2007.



Data Characteristics and Conceptual Model

	Compliance and Enforcement	Compliance Documentation	Enforcement	Information Sharing
Inputs	Resources, and budget available for enforcement and inspection	Documenting compliance with inspection reports, Orders and criminal referrals	Budget, Staff and equipment resources available enforcement	Resources are available for information sharing (Comprehensive databases and data mining)
Activities	Develop and implement Program Strategies	Process to document compliance thru data mining	Use of the DTSC Enforcement Response Policy	Develop approach to make information available.
Outputs	Implement Program goals and objectives	Document compliance	Ensure violations enforced according to policy.	Ensure compliance and enforcement information is available
Outcomes	Is compliance achieved.	Ensure compliance information stored, available and useful.	Determine if enforcement effective in ensuring compliance.	Compliance and enforcement information is useful/used.

Program Outcomes

DTSC will need to track and report increased compliance rates in percentages for facilities identified as part of the Project.

Program Limitations

The Team will need to conduct research and develop a baseline for reporting and tracking results.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

A) The Enforcement and Emergency Response Program has developed its first Performance Measures “Dashboard.”

The Dashboard is intended to provide a status-at-a-glance to show progress made towards achieving the enforcement goals identified in the DTSC Strategic Plan.

This “**Enforcement Dashboard**” is located under the Appendices.

B) Green Chemistry

At Cal/EPA’s request, DTSC conducted an 18-month, inter-departmental effort to explore a new way to look at chemicals in our society. Known as the “California Green Chemistry Initiative,” the effort has outlined a comprehensive strategy that will reduce the use of hazardous substances in the design, manufacture and production of products, making them “benign by design.” The proposed strategy is a new approach to close gaps in information about chemicals in products, improve product safety, and explore technology for safer alternatives. Green Chemistry moves the state beyond the ad-hoc bans on specific chemicals or uses of chemicals. It complements current efforts to enforce state laws governing lead in jewelry, toxics in packaging, mercury in certain devices, and covered electronics.

C) Lighting Efficiency and Toxics Reduction Act Task Force

Description: As part of DTSC on going Toxics in Consumer Products program AB 1109 (Huffman, Chapter 534, Statutes of 2007), the California Lighting Efficiency and Toxics Reduction Act, requires DTSC to convene a Task Force to discuss the end-of-life management of general purpose lighting. The Lighting Task Force is to be comprised of representatives from a number of sectors with interest and involvement in lighting waste issues. The Task Force will solicit input from the public and others and begin scoping issues and options to be considered. The Task Force is charged with developing a set of recommendations by September 1, 2008, related to consumer access to collection and disposal alternatives, consumer education, and labeling and packaging standards. The Enforcement Program will be responsible for conducting inspections and enforcement for this program.

Program Metrics

Data Characteristics

The Lighting Task Force will produce a Final Task Force Report with recommendations and will include the following data: consensus items; presentation of options submitted by different stakeholders; robust background, data resource and references; proposals and comments. This information will be used to establish an enforcement program for this effort.

Program Inputs

The enforcement program will need to identify staff positions to conduct inspections and enforcement for this program.

Program Outputs

Performance Measures, inspections and enforcement and compliance data will be tracked and reported for this effort.

Program Outcomes

The key requirements and objectives for the Lighting Waste Act are:

1. Set new efficiency standards for general purpose lighting such as a 50% reduction in consumption by 2018 for households.
2. Prohibit the manufacture and sale of general purpose lighting after January 1, 2010.
3. DTSC to work with manufacturers to determine in 2014 if certain types of lamps that are exempt (e.g. high output) should be subject to the prohibition.
4. DTSC to convene a Task Force to consider and make recommendations to the Legislature on the most effective and cost efficient and convenient method for the Consumer for proper collection and recycling of any end-of-life general purpose lighting.

D) Dental Amalgam Program

Description: As part of the Compliance Assistance program DTSC has been identified as the department that will oversee the enforcement of dental amalgam. Waste dental amalgam is considered to be a hazardous waste because it contains nearly 50% mercury. It can be eligible for management under the less stringent Universal Waste requirements if it is sent to an authorized recycling facility. The Enforcement and Emergency Response Program will create a team whose goals will be outreach, education and finally inspection and enforcement of the regulated community. Performance Measures will be established in order to track and report results and compliance rates.

Program Metrics

Data Characteristics

Inspections to be conducted as part of this effort will be tracked in the ICE database.

Program Inputs

A Team will be created to report inspections and percentage of increased compliance obtained for the sector. A baseline will need to be established in order to begin efforts to track and report the data and results.

Program Outputs

The Team will inspect and report data for the sector identified within the program in order to establish a baseline to then begin reporting compliance rates.

Program Outcomes

DTSC will need to track and report increased compliance rates for facilities identified.

E) DTSC Environmental Indicators

Environmental indicators are measurements that track environmental conditions over time. In recent years, more and more states, countries and international organizations have adopted environmental indicators. Examples of environmental indicators include levels of air pollution, the volume of waste sent to landfills, human health effects from sources of contamination and the extent of forest acreage in the state. Environmental indicators provide objective, scientifically based tools for tracking changes occurring in the environment. They improve our understanding of the environment and how human activities (along with other factors) can influence it.

DTSC will use indicators to provide a “big picture” look at DTSC’s work and objectively track whether our actions are effective. We will use these indicators as part of our performance management system to monitor and maximize our beneficial impact on the environment. Many environmental programs have relied heavily upon measures of activity, such as the number of permits granted or notices of violation issued. We will go beyond just counting outputs; we will use indicators to show the outcomes of our actions on the environment. With these, DTSC will fully embrace and implement the Legislature's directive to measure its progress in meeting California's environmental goals.

Below is a mock up copy of the web page containing environmental indicators information that DTSC will be provide to the public in the future.

The screenshot displays the DTSC website interface. At the top, the logo for the California Department of Toxic Substances Control (DTSC) is visible, along with a search bar and navigation links. The main content area is titled "ENVIRONMENTAL INDICATORS" and includes a sub-header "Office of Data Evaluation and Environmental Indicators". A paragraph explains that environmental indicators are measurements that track environmental conditions over time and provide objective, scientifically based tools for tracking changes. Below this, a list of indicators is shown, each with a status of "Under Construction":

- Protecting Public Health
- Protecting California's Groundwater
- Restoring Communities
- Managing Hazardous Waste
- DTSC's Regulated Universe
- Ensuring Environmental Compliance
- Preventing Pollution
- Reducing DTSC's Environmental Footprint

On the left side, there is a sidebar titled "INDICATOR RATINGS" with a list of indicators and their corresponding star ratings (e.g., 5 stars for Protecting Public Health, 4 stars for Protecting California's Groundwater, etc.).

F) Our Strategic Plan Goals and Objectives

DTSC is currently updating its Strategic Plan for 2008-2013. The original plan became effective as of July 1, 2008 and is available for public review on DTSC’s web site at www.dtsc.ca.gov. The priorities for Enforcement and Emergency Response Program are identified in DTSC’s Strategic Plan as Goal 4.

GOAL 4: The environment and public health are protected through proactive enforcement of toxics and environmental laws and through conducting hazardous substance-related emergency response actions.

Objective 4.1: By June 2010, increase compliance rates for selected types of DTSC-regulated treatment/storage/disposal facilities.

Objective 4.2: By 2010, achieve compliance with laws regarding lead-containing jewelry available to the public.

Objective 4.3: Streamline DTSC’s inspection and investigation processes.

Objective 4.4: On an ongoing basis, respond in a timely manner to all requests for emergency hazardous substance recovery operations that fall within DTSC's statutory authority and funding limits.

Objective 4.5: By June 2012, enhance DTSC's capability to provide emergency response support in natural disaster and homeland security incidents by establishing a multi-discipline DTSC Emergency Response (ER) Team that is equipped and trained to provide recovery support to an incident command or emergency operations center during natural disaster and homeland security incidents.

IV. APPENDICES & ADDITIONAL INFORMATION

A) "Enforcement and Emergency Response Performance Measures Dashboard Report form."

For more detailed information on DTSC, go to our web site at: <http://www.dtsc.ca.gov/>

To read the Final Report for Fiscal Year 2006-07 (July 1, 2006 through June 30, 2007), ENFORCEMENT AND EMERGENCY RESPONSE PROGRAM, COMPLIANCE MONITORING AND ENFORCEMENT, go to: http://www.dtsc.ca.gov/HazardousWaste/upload/EERP_EOY.pdf

If you wish to report an incident involving improper handling of hazardous waste, you can contact your local hazardous waste agency, or contact DTSC's **Waste Alert Hotline at 800-698-6942.**

APPENDIX A

ENFORCEMENT AND EMERGENCY RESPONSE PERFORMANCE MEASURES

**ENFORCEMENT AND EMERGENCY RESPONSE
PERFORMANCE MEASURES DASH BOARD REPORT**

Performance Measure #	4.1.1	4.1.2	4.1.3	4.2.1	4.3.1	4.3.2	4.4.1	4.4.2
	Percentage of entities found to be in compliance during inspections	Entities found to be out-of-compliance that have returned to compliance	Number of Formal Enforcement actions taken	Number of Items removed from sale a) jewelry removed b) packaging removed	Percentage of Inspection Reports provided within 65 days after the first day of the inspection	Percentage of Enforcement Actions Initiated within 240 days of first day of inspection	Number of a) Drug Labs b) Emergency Response Actions	Percentage of contractors that meet the response time identified in their contract
	a) by sector/handler type b) % w/Class 1 violations c) % w/ Class 2 violations	a) by sector/handler type/violation class b) percentage c) recidivism rate						
Office								
Emergency Response	a) % b) % c) %	a) # b) % c) #	#		%	%	a) # b) #	%
State Oversight	a) % b) % c) %	a) # b) % c) #	#		%	%		
Enforcement	a) % b) % c) %	a) # b) % c) #	#		%	%		
Criminal Investigations				a) # b) #				

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UNIFIED PROGRAM

I. EXECUTIVE SUMMARY

In January 1994, Senate Bill (SB) 1082 restructured a limited number of environmental programs in California to consolidate regulatory activities into a single unified hazardous waste and hazardous materials regulatory program referred to as the Unified Program. Under this Unified Program, the California Environmental Protection Agency (Cal/EPA) has delegated the bulk of inspection and enforcement activities for these programs to certified local agencies, called Certified Unified Program Agencies (CUPAs). A CUPA is a local agency (e.g., city, county, joint powers authority) or a designated state agency that is responsible for the implementation of all the unified program elements in a coordinated and consistent manner within the local jurisdiction.

A CUPA must establish a program that consolidates, coordinates and makes consistent the administrative requirements, permits, inspection activities, enforcement activities, and the hazardous waste and hazardous materials fees. A number of CUPAs also work with other local governments that implement one or more of the regulatory programs. These other local governments are referred to as Participating Agencies (PAs).

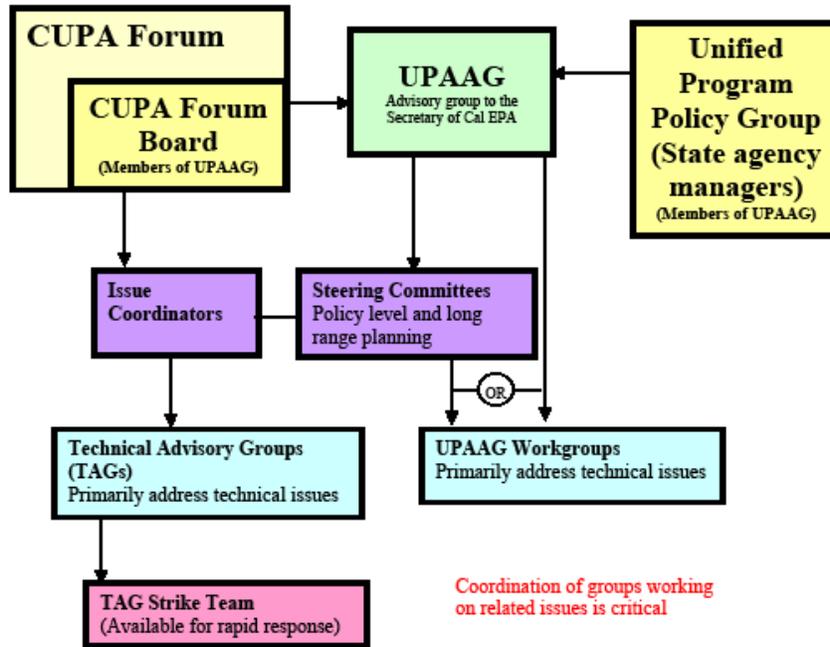
There are now 84 CUPAs and 36 PAs, a total of 120 reporting entities. They are a well-organized group and provide effective management of the local elements of their oversight and regulatory responsibilities. (See <http://www.calcupa.net> for information on the California CUPA Forum). Unlike other environmental areas, the Secretary of Cal/EPA is directly responsible for coordinating the administration of the Unified Program. The state agency partners involved in the Unified Program have the responsibility of setting program element standards, working with Cal/EPA on ensuring program consistency and providing technical assistance to the CUPAs and PAs.

The Unified Program consolidated the administration, permits, inspections, and enforcement activities of the following environmental and emergency management programs. The responsible state agencies are also listed.

- Hazardous Materials Release Response Plans and Inventories (Business Plans) – Governor’s Office of Emergency Services (OES)
- California Accidental Release Prevention (CalARP) Program - OES
- Underground Storage Tank Program – State Water Resources Control Board (SWRCB)
- Aboveground Petroleum Storage Act (APSA) Program - SWRCB
- Hazardous Waste Generator and Onsite Hazardous Waste Treatment (tiered permitting) Programs – Department of Toxic Substances Control (DTSC)
- California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements – Office of the State Fire Marshal (OSFM)

The California CUPA Forum was formed to provide a single statewide organization of CUPAs and PAs consolidating Unified Program implementation efforts and representing all certified or participating agencies with a single voice. The Cal-CUPA Forum strives to achieve consistency, consolidation, and coordination in the implementation of the Unified Program in an efficient and effective manner. The Cal-CUPA Forum has established Technical Advisory Groups and Work Groups.

CUPA Forum and UPAAG Organizational Chart



Refer to the following documents for further information.

Organization/Position	Document
CUPA Forum Board	Bylaws of the California CUPA Forum
Issue Coordinators	California CUPA Forum Policy – Issue Coordinators
Technical Advisory Groups	California CUPA Forum Policy – Technical Advisory Groups
TAG SubCommittees	California CUPA Forum Policy – Technical Advisory Groups
UPAAG	Unified Program Administration and Advisory Group Charter
UPAAG Steering Committees	UPAAG Policy – Steering Committees
UPAAG Workgroups	UPAAG Policy – Workgroups
UPAAG and UPAAG Steering Committees and Workgroups	Group Charter

Rev. Date: 8/26/2004

The Unified Program Administration and Advisory Group (UPAAG) was created to foster effective working partnerships between local, state and federal agencies. The purpose of the UPAAG is to provide a forum to gather, process, discuss, refine, and develop issues concerning implementation of the State-wide Unified Program. UPAAG serves at the request of the Secretary of Cal/EPA. The scope of issues includes those associated with program development, implementation and maintenance that impact all Unified Program stakeholders. In the UPAAG, members of the CUPA Forum work with state and federal agencies on policy decisions, education and problem-solving. UPAAG has established Steering Committees and Work Groups to aid in this undertaking. The relationship between these organizations is depicted in the chart.

A) Major Program Highlights

The CUPAs are now consistently inspecting about 50,000 of the 140,000 regulated hazardous materials storage, hazardous waste generation and underground storage businesses each year. This is up from

about 46,000 inspections five plus years ago. The increase in the number of hazardous waste generator inspections annually accounts for the upward change.

In state fiscal year 2006/2007, 35 of the 84 CUPAs completed a total of 573 administrative enforcement orders (AEOs) against regulated entities or individuals that were in violation of environmental laws. This is significant because the statutory law that provides authority to CUPAs for taking such action was only enacted five years ago. Each year has seen a growth in the use of this enforcement tool, from less than 200 actions the first year to 573 actions the fifth year. We expect this upward trend to continue.

Success in the CUPA Program like all others depends on a strong working relationship between federal and state local authorities. To build that relationship, training is the key. The 2008 California Unified Program Annual Training Conference held in February 2008 highlighted ten years of increasingly well attended programs. The first conference had around 300 attendees, but has grown each year with over 1,000 local, state, and federal staff now attending this training event. Each successive conference has had more available training than the last with the last conference including over 200 hours of technical and management training in seven separate tracks over four days. Selected trainings are now routinely video recorded and processed to either CDs or to files that can be streamed over training websites. The training videos are posted on the CUPA Forum website at www.calcupa.net. The conference includes one entire training track on differing aspects of enforcement.

The Unified Program Section of Cal/EPA, along with the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), Governor's Office of Emergency Services (OES) and Office of the State Fire Marshal (OSFM) completed a full three year evaluation cycle of all 84 CUPAs between January 2005 and December 2007. In summary, during the evaluation process 15 CUPAs met or exceeded requirements, 60 were found to have satisfactory programs with some deficiencies and nine (9) CUPAs had unsatisfactory programs. Aggressive state follow up with the CUPAs on deficiencies improved overall program performance so that 35 CUPAs had corrected all identified deficiencies and five (5) had corrected most. By the end of calendar year 2007, 50 CUPAs met or exceeded program requirements, 30 had satisfactory programs and continued to work on deficiencies and four (4) had unsatisfactory programs.

The Unified Program has accomplished most of the goals established in the 2003 Strategic Plan and the accompanying Top 10 Priorities set by the Unified Program Administrative and Advisory Group (UPAAG). Those goals included such things as: working together on the development and coordination of legislative concepts, developing a more effective and beneficial evaluation process, improving the collection of data and streamlining reporting processes and building a more uniform inspection and enforcement program statewide. These areas will be addressed in further detail in this report.

In November 2007, the UPAAG adopted the Unified Program Regulatory Performance Model (UPRPM) as the recommended model for inspection and enforcement programs for all CUPAs. The UPRPM was developed by the Enforcement Steering Committee over the past several years. The UPRPM is included as Appendix A. This model will be used as a guide in any future revision of the CUPA evaluation process addressing CUPA inspection and enforcement programs.

The California CUPA Forum Accomplishments Report is included as Appendix B. A summary of some of the reported accomplishments follows:

- Improving measurement and communication of CUPA program performance.
 - Improved CUPA evaluation process.

- Strengthening state and local agency cooperative efforts regarding regulations, legislation, standards and policies.
 - Established a single AEO process for all program elements.
- Improving consistency in inspection and enforcement.
 - Provided the AEO Guidance Document.
 - Produced the Inspection Report Writing Guidance Document.
 - Produced the Violation Classification Guidance Document

The UPAAG developed a strategic plan in 2004 and used it as the basis for annual work plans. The Cal/EPA Unified Program, in cooperation with the CUPA Forum Board, DTSC, SWRCB, OES and OSFM, has completed the following accomplishments during the past four (4) years:

- Develop ways to better measure performance and communicate performance.
 - Came to a consensus that enforcement numbers are not the only or best way to measure program success.
 - Demonstrated the effectiveness of the CalARP program in a report published by one of the CUPAs. The report showed a drop in the number of injuries and incidents within the CalARP program after full implementation.
 - Established a coordinator position on the CUPA Forum Board that is now working with Cal/EPA to develop performance measures.
 - Modified the evaluation process went through several revisions, each improving the process from the previous program.
 - Revised the evaluation process to base evaluation intensity upon the history of the CUPA as noted in the past evaluations and the annual reports.
 - Established a system to track the progress of the new evaluation process.
 - The California Code of Regulations (CCR) Title 27 Data Dictionary (the Unified Program data standard) updated with new information collection elements, including enforcement related information.
- Work together on standard development, rule making, and legislative concept development and coordination.
 - Established a UPAAG Legislative Steering Committee (SC).
 - Established a single AEO process for all program elements as part of implementing Assembly Bill 2481.
 - Developed a legislative SC process to coordinate development of legislative proposals with other UPAAG SCs and TAGS.
 - Implemented the previously passed legislation establishing the minor violation classification.
 - Established a coordinator position within the CUPA Forum to work with Cal/EPA on the CA Regulatory Performance Model, an enforcement program model.
 - Created a legislation tracking report format and process to be used by all CUPAs.
 - Identified regulations that may impact the Unified Program.
 - Enacted the Conditionally Exempt Small Quantity Generator and Universal Waste 5% effort policy where CUPAs devote 5% of their local effort to these kinds of programs.

- Worked with Assemblyman Laird to craft and pass Assembly Bill (AB) 1130 to transfer the Aboveground Storage Tank (AST) program from the Regional Water Quality Control Boards to CUPAs.
- Improve the uniformity of inspection and enforcement.
 - Published an Administrative Enforcement Order guidance document to help identify and standardize this enforcement tool.
 - Created an Industry Workgroup issue resolution mechanism to provide a method for industry to get input to the Unified Program.
 - Published a standardized Inspection Report Writing Guidance document to help standardize facility inspection reports.
 - Achieved full implementation of the Unified Program.
 - Integrated the Inspection Report Guidance Document into existing processes.
 - Standardized violation classifications across all the UP program elements through a Violation Classification Guidance completed and posted Jan 2007.
- Pursue the development and delivery of coordinated training opportunities
 - Continued all agencies support of the annual CUPA Conference.
 - Made Underground Storage Tank (UST) Training available via website.
 - Used some settlement money from enforcement cases to support training programs.
 - Made classes available on disk.
 - Established Cal EPA Assistant Secretary for Enforcement Training for state and local agencies.
 - Identified the conference classes/presentations that are to be taped and notify the speakers and their supervisors several months in advance.
 - Involved USEPA in the conference with one training class and one non-conference training class.
- Improve data and reporting processes and infrastructure.
 - Established a Data SC.
 - Finalized and implemented the Unified Program Data Management Plan which identifies the standards for exchanging required program information.
 - Established the management of change program to control how changes are made to the data standards.
 - Linked Unidocs and Geotracker for UST information so that any UST information entered into Unidocs shows up in GeoTracker automatically.
 - Obtained US EPA Grant to tie Unidocs to Cal/EPA system. Grant approved April 2006.
 - Filed Title 27 Data Dictionary revision final with The Office of Administrative Law (OAL) on Oct 31, 2007.
 - Created a Cal/EPA Data Standards Steering Committee (DSSC) in Nov 2006. CUPAs have a representative on DSSC.

- Achieve full implementation of the Unified Program.
 - Certified DTSC as the CUPA for Trinity and Imperial Counties in place of local government which refused to implement a Unified Program. This completes coverage for the last two counties that did not have an active Unified Program. Both have had their first formal CUPA Evaluation.
 - Invaded the CalARP program in the CUPA evaluations.
 - Continuing to work on resolving the federal facility fee issue, whether or not we regulate them and they pay fees.
 - Improved the uniformity of inspection and enforcement.
 - Completed a review of the Business Plan Program implementation at agricultural facilities.

B) What the Reported Data Tells Us

Overall, the CUPAs are well staffed by our local government partners and continue to have a high level of activity. Statewide there is about 875 full time CUPA staff working on the Unified Program, including over 500 full time field inspectors. This is the first time that the staffing level of the CUPAs has been measured. In context, prior to 1994, there were a few local governments under agreement with DTSC and limited state staff doing inspections for the hazardous waste program. Similar processes existed for USTs. The hazardous materials disclosure program was being overseen by local Administering Agencies, but no metrics were being gathered on the numbers of site inspections. Having an additional 500 local field inspectors is a major increase and a stable presence for these local programs.

As noted in the highlights above, these local field inspectors conducted inspections of over 50,000 facilities last year, up by about 10 percent since 2000. They also pursued over 45,000 informal enforcement actions last year, up by 30 percent since 2000. There were over 1,100 formal local enforcement actions (administrative, civil and criminal) last year, about the same as in 2000, collecting almost \$5,000,000 in penalties as the result of those activities.

The implementation of an AEO process for the Unified Program in the 2003 (AB 2481) added a formal administrative enforcement tool directly usable by CUPAs to their other referral based formal enforcement options. That means, instead of having to choose between issuing minor violations or convincing a local prosecutor to pursue a case, the CUPA can pursue its own administrative cases. The number of AEOs has steadily risen as more CUPAs use this enforcement option. There are 71 CUPAs, about 85 percent, that have taken some type of formal enforcement action against a business. The use of formal enforcement by CUPAs is slowly growing as more CUPAs become more knowledgeable about these processes.

There are 13 CUPAs, about 15 percent, that have never used any type of formal enforcement in the history of their program. These 13 CUPAs are mostly the smallest and most rural programs. These rural jurisdictions with small business bases continue to have major difficulty maintaining staffing levels sufficient to support the required program activities, including enforcement. There are 19 rural county level CUPAs that have populations under 70,000 and with business bases of under 300 businesses. Most of these CUPAs' program issues relate to inadequate staffing driven by the lack of sufficient fee based funding. Nine of the CUPAs with unsatisfactory evaluations noted above were in this group. Of note is that of the remaining four CUPAs with unsatisfactory programs at the end of 2007, three are not receiving State subvention in any manner and the fourth is still struggling with program start-up.

The federal government recently reviewed our state program and found it to be strong. US EPA Region 9 completed the federal Enforcement Evaluation of the RCRA Hazardous Waste Generator program in California in August 2007, also called the State Review Framework.

C) How the Program Will Use This Information

The UPAAG met for two days in mid-March 2008 to review and revise the Unified Program Strategic Plan using the information summarized above. The results of that meeting are included in this report in the form of the new prioritized Ten Strategic Directions that are included in Part IV of this report.

Since the annual summary enforcement data shows that 13 CUPAs have never done formal enforcement and another 12 CUPAs that have done only one (1) or two (2) formal enforcements, Cal/EPA is looking to help those local CUPAs improve. In most cases, these CUPAs are smaller rural jurisdictions with a small number of businesses. However, there are a few medium CUPAs that may need technical training and others that might require more effort to educate local elected officials as to the importance of consistent local enforcement in their jurisdiction.

When the summary enforcement data was parsed at the program element level, it became apparent that some larger CUPAs are not doing any formal enforcement action in specific media programs where there are a significant number of violations. Cal/EPA is working with DTSC and SWRCB to see if a focus on these CUPAs is warranted.

Another concern is that most analysis of the inspection data indicates that significant program activity is focused on compliant facilities and does not look at the facilities that operate illegally without government regulation. UPAAG's Enforcement Steering Committee undertook a project to identify a potentially better model program that would use standardized indicators, other than just inspection activity and the results, to help focus local resources. After significant review and modification, the UPAAG adopted the new UP Regulatory Performance Model (UPRPM) as the model enforcement program for CUPAs. See Appendix A for detail on the UPRPM.

II. CAL/EPA UNIFIED PROGRAM'S ENFORCEMENT PROGRAM

A) Overview

The Unified Program's mission is to protect public health and safety, and to restore and enhance environmental quality, and sustain economic vitality through effective and efficient implementation of the hazardous material and waste programs within the Unified Program.

The Unified Program's vision is that all participants of the program at the federal, state, and local level will continue to play an active role in policy oversight and implementation of the Unified Program. The vision includes that all Unified Program participants at the federal, state and local level will engage in a quality of communication, to enhance mutual trust, and more effective implementation.

The Unified Program takes its fundamental enforcement structure from the implementing statutes of the six unified program elements. However, the 84 CUPAs introduce a significant level of complexity. Not only is each CUPA's enforcement program governed by the federal and state statutes and regulations, but also by local ordinances and codes. This section necessarily focuses on the federal and state

requirements as implemented in the Unified Program. Not included are any reviews of the local ordinances that might augment these requirements.

The UPAAG, identified in the Overview, developed a Strategic Plan for the Unified Program. Goal 1 and Goal 4 of that plan speak to enforcement.

Goal 1: State and Federal Agencies shall continue full participation and coordination in their oversight of the Unified Program and shall speak with a unified, consistent voice in communicating with local agencies.

- a. One of the strategies to accomplish this goal is to develop guidance and unified models. To that end, a number of guidance documents were developed that identify what Inspection and Enforcement programs should look like, how to classify violations into the standards of Class 1, Class 2 and Minor, and how to construct Inspection Reports.
- b. The Unified Program developed an Inspection and Enforcement Resources web site with these guidance documents and more.

Goal 4: Assure consistent compliance of regulated facilities. The strategies are to develop coordinated, consistent and consolidated enforcement processes for the Unified Program and uniform inspection procedures across all program elements.

- a. The work behind the Inspection and Enforcement Resources web site is one element of this work.
- b. The UPAAG formed an Enforcement Steering Committee that specifically works to implement this goal.

Cal/EPA and the CUPAs, working together, recently finished a Guidance Document for Inspections and Enforcement that covers the fundamentals of a complete and sound local inspection and enforcement program. The guidance document is published on the Cal/EPA Unified Program Inspection and Enforcement Resources web site. CUPAs determine or verify compliance utilizing a variety of tools such as inspections, investigations, service requests, complaints, record reviews, and/or surveillance.

Cal/EPA and the CUPAs also developed guidance on penalties and supplemental environmental programs that is published on the Cal/EPA Unified Program Inspection and Enforcement Resources web site (www.calepa.ca.gov/CUPA/Resources). CUPAs use an array of methods for enforcement response, both informal and formal, including but not limited to notices of violation, administrative enforcement orders, civil and criminal case referrals to the city or district attorney.

B) Enforcement Program Components

Description: Cal/EPA requires that each of the 84 CUPAs develop and maintain an Inspection and Enforcement Plan, which allows each CUPA to operate within its own local enforcement program structure developed in accordance with the guidelines established by Cal/EPA. CUPAs must review the plan annually and update the plan as necessary. Evaluation of each CUPA's program has been measured against these guidelines for the past ten years. The recently published Guidance Document for Inspection and Enforcement includes the following preface, which more specifically describes the requirements.

“Unified Program Agencies (UPA’s) are charged under the California Health and Safety Code (Health & Saf. Code) with responsibility for enforcement of the legal requirements of the six underlying environmental and public safety programs. To “...ensure coordinated, efficient, and

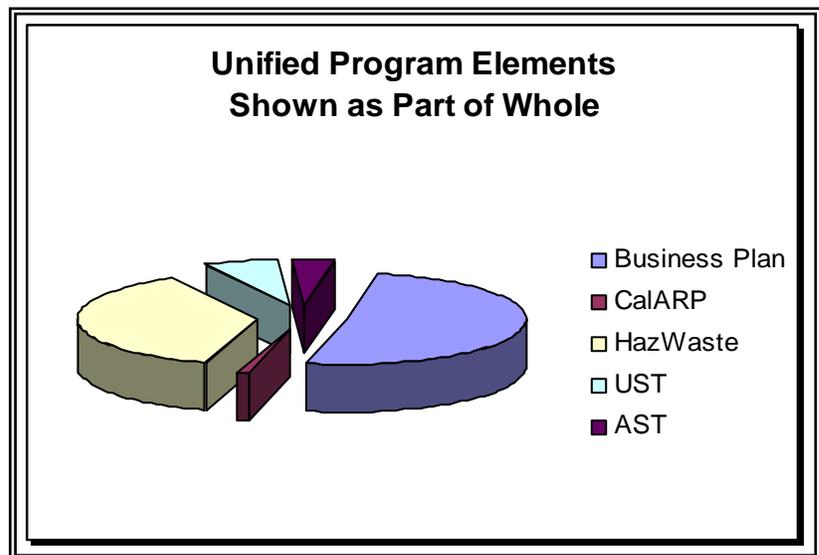
effective enforcement ...” of these six programs (Health & Saf. Code, § 25404.2), each UPA is required to develop and implement a single unified inspection and enforcement program meeting the specific requirements in both statute and regulation.”

The Unified Program Regulatory Performance Model (UP-RPM), adopted in November 2007 as the statewide model for CUPAs, describes the elements of a comprehensive regulatory program and criteria for priority considerations that form the framework for establishing innovative and potentially more effective “Alternative Compliance Strategies.” These innovative strategies are intended to allow for flexibility in utilization of staff resources to effectively address the highest environmental and public health priorities while maintaining adequate oversight of all regulated entities. These strategies may include less frequent routine inspections of low “risk,” compliant entities to allow for increased resource allocation to oversight of high “risk” entities, more effective enforcement at problem facilities and more complete implementation of essential program elements described in this model.

To ensure that all entities subject to regulation are in fact permitted and inspected as required, CUPAs work internally with a variety of local agencies to more effectively identify all the regulated businesses within each program element. These internal resources can utilize information from other departments or internal agencies such as business licenses, use permits, environmental documents, fire permits, construction and other operating permits. CUPAs also use other resources such as business directory listings, the DTSC hazardous waste tracking system, and Chambers of Commerce on a fairly regular basis. Finally, a number of CUPAs have drive-by programs where inspectors drive through business districts to visually identify new businesses that may not have obtained a license or permit so that they can bring them into the regulated community. The CUPAs report to Cal/EPA annually on their regulated universe at the program element level.

The number of regulated businesses reported by the CUPAs in fiscal year 2006/2007 by program element are:

- Total Regulated Businesses – 139,290
- Business Plan Program – 116,500
- CalARP Program – 2,490
- Hazardous Waste Program – 85,200
- UST Program – 15,400
- APSA Program – 9,000



Note: the figure does not adjust for overlapping program elements, i.e., businesses with more than one program element.

CUPAs develop and implement their inspection and enforcement programs by applying statutory and regulatory requirements utilizing the guidance documents as road maps. See the Cal/EPA Unified Program Inspection and Enforcement Resources web site at <http://www.calepa.ca.gov/CUPA/Resources/> for additional detail.

CUPAs also leverage enforcement resources and improve program effectiveness by continually coordinating with related agencies. Some common techniques include:

- Task Forces – Many CUPAs attend and support a number of state, regional, and local enforcement task forces. The task forces include local District Attorneys.
- Information sharing – Information regarding enforcement actions on companies that may have locations outside a specific CUPA are done through a CUPA Enforcement Coordinator that works with the CUPA Forum Board, the UPAAG Enforcement Steering Committee, Cal/EPA's Assistant General Counsel for Enforcement, and Cal/EPA's Deputy Secretary for Law Enforcement and Counsel. There is no automated information system supporting this portion of the state program at this time. However, Cal/EPA has an approved and funded project that will provide this capability in about 18 months.
- Referrals – Each program element described in report section IIA has its own referral process and agency.
- Multi-agency investigations – This is a developing area within the Unified Program. Coordination is currently done through the Enforcement Coordinator identified by the CUPA Forum Board.
- Multi-jurisdictional actions – This is a developing area within the Unified Program. Coordination is currently done through the Enforcement Coordinator identified by the CUPA Forum Board.

The responsibilities for the program are laid out in each program element's statute and regulation and more specifically in the Unified Program statutes and regulations. Unified Program statute specifies:

- All aspects of the unified program related to the adoption and interpretation of statewide standards and requirements shall be the responsibility of the state agency that is charged with that responsibility under existing law. Those agencies are identified above.
- Those aspects of the unified program related to the application of statewide standards to particular facilities, including the issuance of unified program facility permits, the review of reports and plans, environmental assessment, compliance and correction, and the enforcement of those standards and requirements against particular facilities, shall be the responsibility of the CUPAS and PAs.

CUPAs are responsible for managing the implementation of the Unified Program across all program elements. CUPAs also work with PAs who implement one or more program elements for a CUPA within the PAs jurisdiction. In all cases, PA's implement program element(s) within the boundary of an incorporated city. There are 84 CUPAs and 36 PAs total. Most CUPAs do not have PAs.

Most of the state programs implemented by the CUPA shave a significantly larger scope than the related federal program. A short description of each follows.

- Hazardous Materials Release Response Plans and Inventories (Business Plans) – This program meets the requirements of the federal Emergency Planning and Community Right-To-Know Act (EPCRA) for disclosure of inventories of hazardous materials. The federal program uses a specific listing of hazardous substances and reporting quantities generally higher than those required by the state. Unlike the federal program, the state program uses characteristics to define a hazardous material. In addition, the state reporting quantities are much lower, which together result in a far larger universe of regulated substances and more regulated businesses.
- California Accidental Release Prevention (CalARP) Program - This program meets the requirements of the federal Risk Management and Prevention Program (RMPP) for manufacturing processes that involve the use of toxic and flammable chemicals on the federal list of Regulated Substances. The

state program uses a different list of regulated substances that includes the federal list and more, resulting in a larger regulated business universe.

- **Underground Storage Tank (UST) Program** – The state program covers about the same universe of regulated businesses as the federal program. The state program has far more stringent requirements for tank monitoring, cleaning up leaking tanks, and requires more information be reported on tanks. All USTs are mandated to be inspected annually.
- **Aboveground Petroleum Storage Act (APSA) Program** – The state program covers about the same universe of regulated businesses as the federal program.
- **Hazardous Waste Generator (HWG) and Onsite Hazardous Waste Treatment (Tiered Permitting) Programs** – The state HWG program regulates far more hazardous waste generators than the federal program. The federal program accounts for about 18,000 of the 85,200 reported HWGs. There is no federal equivalent to the Tiered Permitting program. The Tiered Permitting program regulates about 6,000 businesses that treat onsite smaller quantities of specific hazardous wastes using specific technologies.
- The federal hazardous waste generator program is one of the unified programs delegated to DTSC, a state agency. Through the Unified Program a large portion of these program requirements are further delegated to the CUPAs. Significant portions of the program however remain under DTSC's control such as the large permitted Treatment, Storage and Disposal facilities, transportable treatment units, hazardous waste transporters, the Brownfields Cleanup programs, the schools sites program, and site cleanup. No other federal programs under the Unified Program are formally delegated to the state.

State inspection mandates also require much more frequent inspections than their corresponding federal counterparts. A comparison of the two follows.

- **Hazardous Materials Release Response Plans and Inventories (Business Plans)** – There is no federal standard. The state standard is once every three years.
- **California Accidental Release Prevention (CalARP) Program** - There is no federal standard. The state standard is once every three years.
- **Underground Storage Tank (UST) Program** – The new federal standard is once every three years. The state standard is once every year.
- **Aboveground Petroleum Storage Act (APSA) Program** – There is no federal standard. The state standard is once every three years.
- **Hazardous Waste Generator (HWG) and Onsite Hazardous Waste Treatment (Tiered Permitting) Programs** – There is no federal standard or state standard. State guidelines suggest once every three years.

Program Metrics

Data Characteristics

All 84 CUPAs currently report summary data to the state annually for the preceding fiscal year using predefined forms. The CUPAs' interpretation of reporting requirements continues to be unclear for a number of summary elements. Varied interpretations lead to data quality issues with the summary data when all CUPA reports are compiled by Cal/EPA.

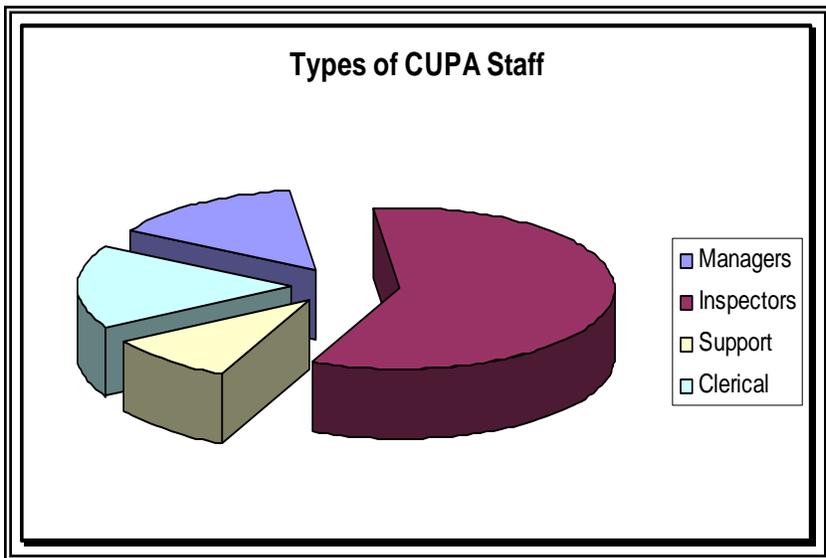
The UPAAG is currently working on developing a set of outcome measures for the Unified Program. Since there are no outcome metrics defined across the Unified Program, this limits the state's ability to only measuring outputs, such as the number of facility inspections and the types of violations, rather than something like compliance improvement across the Unified Program.

Cal/EPA is currently building an information exchange system that will ultimately make detailed activity data available to assist in evaluating program management and effectiveness, and developing meaningful performance measures. The recently introduced AB 2286 is aimed specifically at helping automate the reporting of program information from businesses to CUPAs and from CUPAs to the state. If the bill passes, the three-year data collection program from fiscal year 2009/10 to fiscal year 2012/13 will help significantly in providing the detailed data necessary to better measure the Unified Program impact.

Program Inputs

There are 873 local staff in the 84 CUPAs and PAs broken down as follows.

- Field Level Inspection and Enforcement Staff – There are 510 field inspectors.
- Supervisors and Management – There are 129 managers or supervisors that are not field staff.
- Technical Support Staff - There are 88 technical support staff that are not field staff.
- Non-Technical Support Staff (Clerical) – There are 146 non-technical support staff.



Additional program support resources are available as follows:

- Legal - At the state level, the Unified Program has access to legal staff from Cal/EPA, DTSC, SWRCB, OES and OSFM. Legal resources have been actively used from Cal/EPA, DTSC, SWRCB, and OES many times over the last ten years of program management. Local CUPAs typically have access to the District Attorney, County Counsel and/or City Attorney although some have minimal access while others have open access.
- Toxicologists – The state Unified Program has access to one full time toxicologist through OEHHA for technical support of the CalARP program. Some CUPAs contract with OEHHA for technical support and/or contract with third party toxicologists. The number of local CUPAs utilizing these services is unknown.
- Geologists – The state Unified Program does not have direct full time access to a geologist. However, through the DTSC or SWRCB, there is some level of access to geologists. CUPAs have a widely varying degree of access. Some large CUPAs have a geologist on staff while most do not. Some CUPAs contract with a third party geologist to provide technical support.
- Analysts - The state Unified Program does not have direct full time access to an analyst. However, through the DTSC or SWRCB, there is some level of access to analysts. CUPAs have a widely varying degree of access. Some large CUPAs have analysts on staff while most do not.
- Clerical - At the state level, the Unified Program has access to clerical staff from Cal/EPA, DTSC, SWRCB, OES and OSFM. Clerical resources have been actively used over the last ten years of program management. Local CUPAs typically have clerical staff support within their program.

Program Outputs

Outputs measure activity and while not directly related to outcomes, the following outputs indicate an active and robust program.

CUPAs inspect all of the programs noted earlier in the report. The level of inspections mentioned in the executive summary is upwards of 50,000 routine inspections per year. Many of the differing media inspections are combined for efficiency and a total of 34,320 of the inspections by program element noted below were conducted in the last year.

- Business Plan facility routine inspections and follow up inspections – 59,267
- CalARP facility routine inspections and follow up inspections – 1,149
- UST/AST facility routine inspections and follow up inspections – 8,140
- Hazardous Waste Generator routine and follow up inspections – 46,602

Administrative enforcement actions – Total of 573 actions

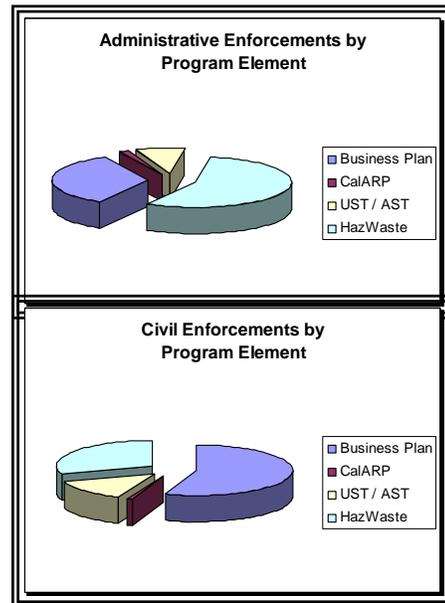
- Business Plan facility - 196
- CalARP facility - 9
- UST/AST facility - 48
- Hazardous Waste Generator facility – 320

Civil enforcement actions – Total of 417 actions

- Business Plan facility - 230
- CalARP facility - 4
- UST/AST facility - 57
- Hazardous Waste Generator facility – 126

Criminal Referral Actions – Total of 75 actions

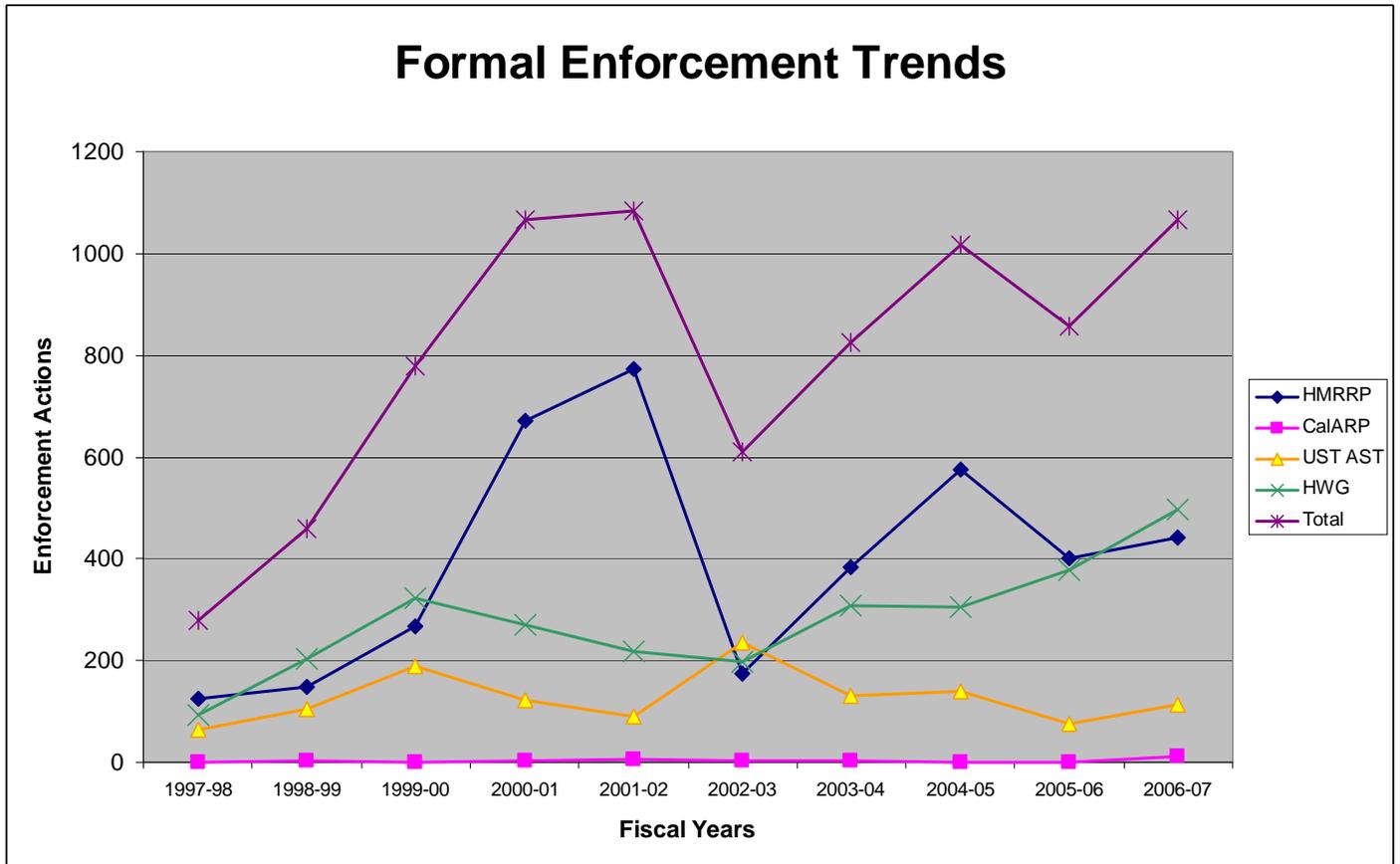
- Business Plan facility - 17
- CalARP facility - 0
- UST/AST facility - 7
- Hazardous Waste Generator facility – 51



Output Trends

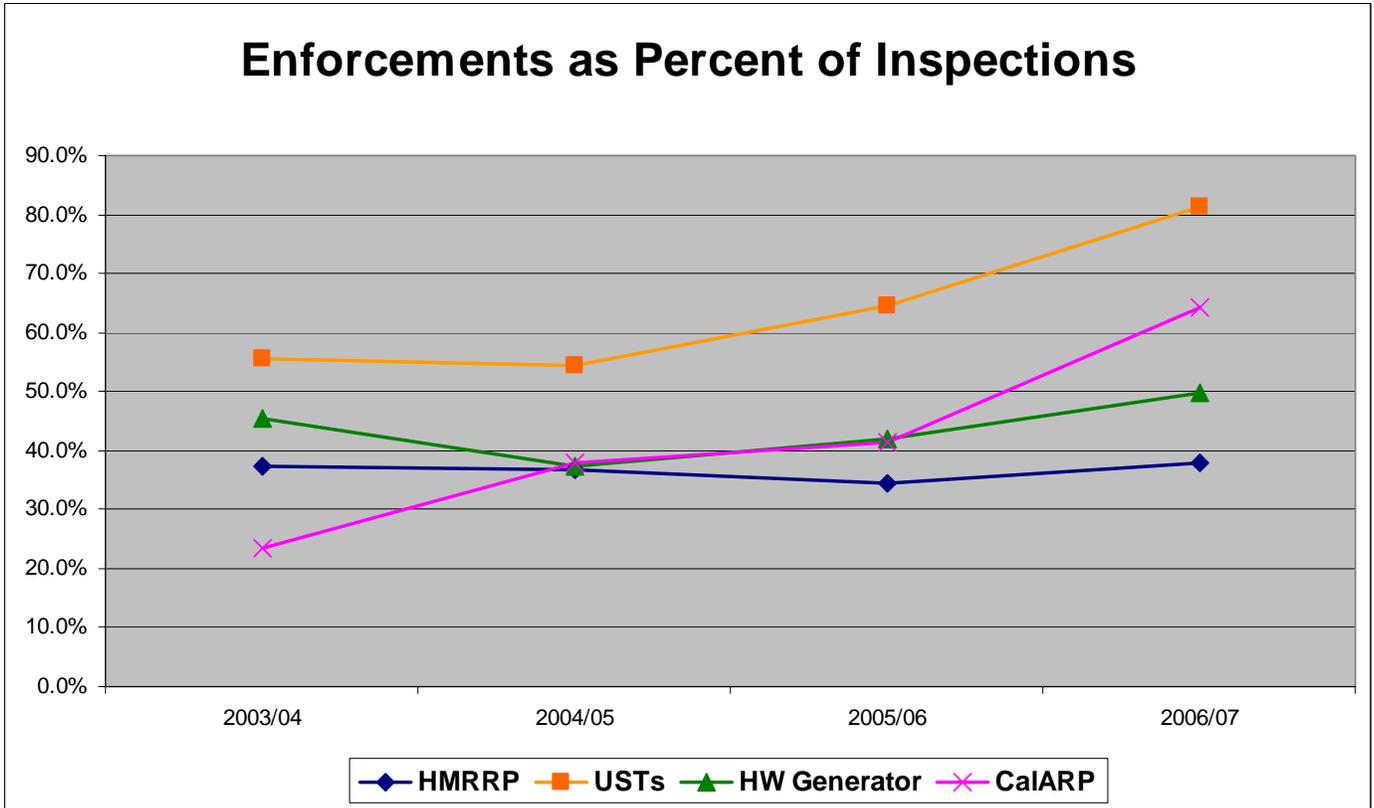
1. Formal Enforcement

The chart below shows a generally increasing trend in formal enforcements overall with a large spike in fiscal years 2000-01 and 2001-02. The spike is created by the enforcement specific to the HMRRP, or Business Plan, program. Additional research shows that a single CUPA may have reported very high levels of activity, in the high two hundreds, for these years in the Civil Enforcement category. This CUPA’s activity for civil enforcement dropped by a factor of ten in 2002-03 into the high twenties. Additionally, only three CUPAs were responsible for the vast majority of activity in this area for these spike reporting years, leading to a significant sensitivity to reporting errors. Finally, these spike reporting years were also the first two years of information gathered for administrative enforcement under the newly enacted Administrative Enforcement Order statutes. If the chart were to be adjusted for this anomaly, there is a generally continuing upward trend in the use of formal enforcement.



2. Enforcement as Percent of Inspections

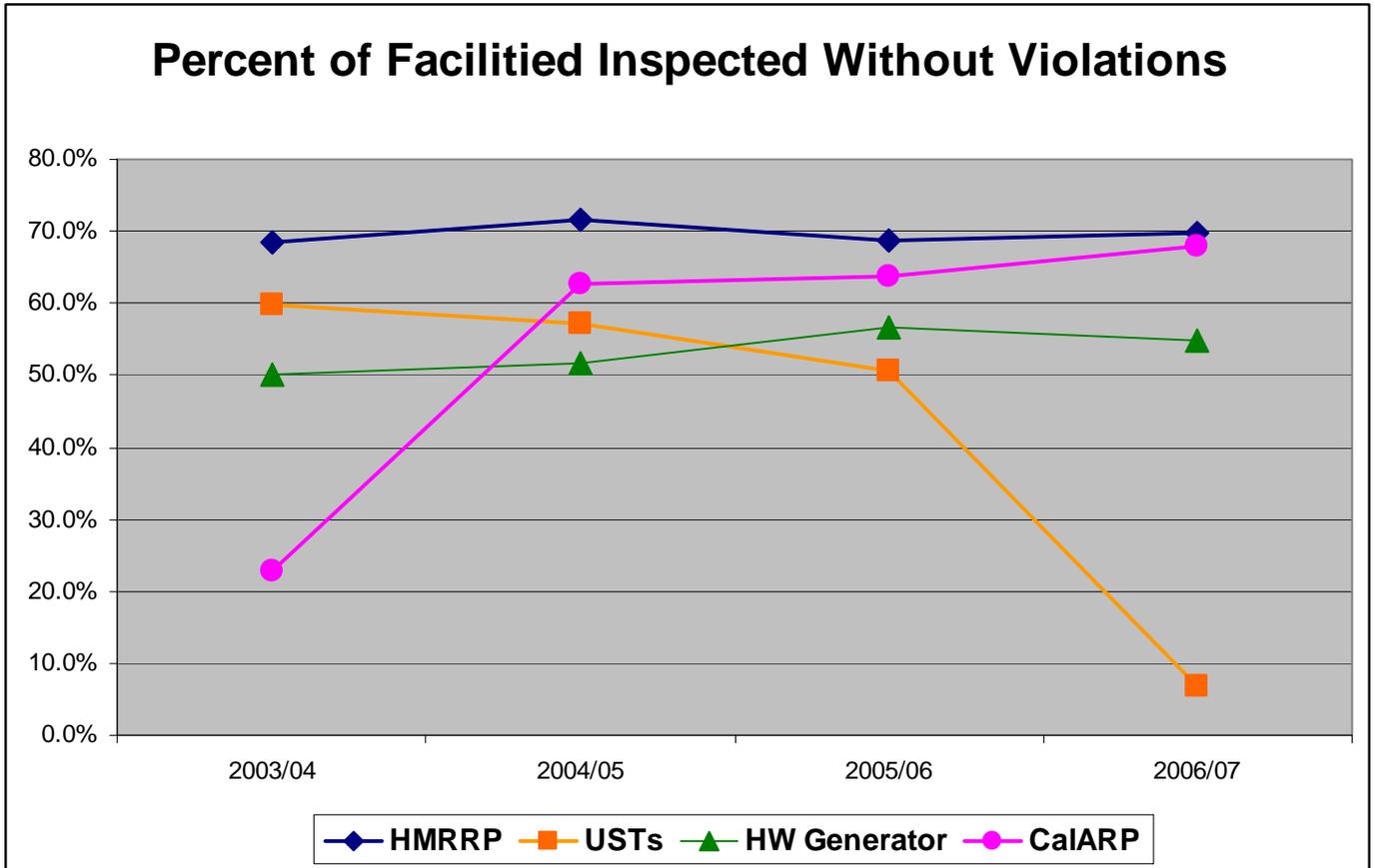
The percentage of enforcements (informal and formal) of the total inspection by program element show a generally increasing trend over the past four years of reported activity in three of the four program elements. This generally shows that CUPAs are more active in finding violations, documenting those violations and taking some type of enforcement in the UST and CalARP program elements. The HW Generator program saw a drop in enforcement initially, but a gradual climb for the past three years. The HMRRP element has remained relatively flat over these years. Of note is the significantly larger percentage of enforcements for the UST program. This trend may explain the UST compliance trend shown on the next chart.



3. Facilities Inspected Without Violations

Cal/EPA collects information on the number of facilities with violations and the number of facilities that are inspected each fiscal year. One measure of program success could be the percent of facilities inspected that did not have any violations. These facilities would be deemed to be fully in compliance with all applicable laws. Since CUPAs track violations that are minor as well as serious, there is good reason to believe that this could be a reasonable indicator.

The graph below shows that there has been a generally flat trend for the HMRRP and HW Generator programs. The initial rise in the CalARP is consistent with program implementation followed by a flattening. The exception to the flat trend is the UST program. That program show a clear and significant drop in the number of violations over the past four years. This may be related to the previous trend showing an increasing enforcement trend for USTs and be related to the following penalty information showing significantly higher penalties associated with USTs as well.

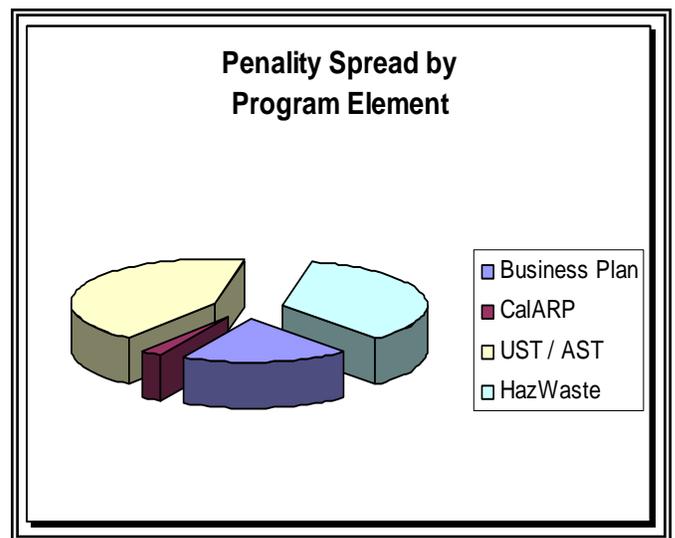


4. Penalty Information

The Unified Program has not historically accounted separately for the monetary value of supplemental environmental projects (SEPs). Starting with fiscal 2009/10, SEPs will be reported separately.

Therefore, the total dollars reported here may contain some SEPs. The total of penalties charged across all program elements for fiscal year 2006/07 was \$4,957,708. By program element they were:

- Business Plan facilities - \$938,906
- CalARP facilities - \$116,089
- UST/AST facilities – \$2,139,628
- Hazardous Waste Generator facilities - \$1,763,086



Of note is that the administrative actions, civil actions and total penalties do not match any particular program element. Indeed, each has a different program element that is significantly larger than the rest. Administrative actions are greatest for hazardous waste facilities, civil actions are greatest for business plan facilities and total penalties are greatest for UST / AST facilities.

Program Outcomes

As stated earlier, the program is at the stage to begin measuring outputs and defining the metrics for measuring outcomes.

Program Limitations

1. What we don't know.
 - Data – The Unified Program currently does not have identified performance outcome indicators. It continues to use activity counts only.
 - Program – The actual effects of enforcement taking place at the local level is not measured. It is inferred that the programs are succeeding because of the activity counts discussed above.
2. What is not being done.
 - CUPA Evaluation Deficiencies – While Cal/EPA is identifying specific deficiencies from evaluations, it is not currently grouping the specific deficiencies so as to identify program deficiency trends.
 - CUPA Evaluation Outstanding Practices – Cal/EPA is not yet publishing the outstanding program portions of the evaluation to provide identified resources to other CUPAs.
 - CUPAs Not Doing Formal Enforcement – There are a number of CUPAs that are not taking any formal enforcement actions as a normal part of their program. As noted in Section I.B., these CUPAs are generally the smaller more rural CUPAs that have the smallest business densities, presenting less overall risk. When looking at program specific information, there is at least one large CUPA, and perhaps more, that are not doing any formal enforcement in three program elements. Currently, Cal/EPA has not developed a formal approach to this issue, aside from formal correspondence and meetings.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

In March 2008, UPAAG met to develop a revised strategic plan for the next three to five years. In late May 2008, UPAAG met to finalize the strategic plan. Out of those meetings came eight specific prioritized strategic directions. They are listed here in priority order.

1. Fully implement an electronic reporting capability that provides for easy efficient data reporting, electronic field based reporting support, access to data for analysis, access for planning and strategic direction development, and provides for public access.
2. Work with the CUPAs so that CUPAs consistently implement all program elements with an evaluation rating of meets requirements.
3. Develop effective performance measures to measure the effect of the Unified Program.
4. Improve training delivery by creating a variety of alternatives that meet state and local staff development and program needs.
5. Plan for succession so as to provide continuity with a new diverse and knowledgeable work force.
6. Eliminate single walled underground storage tanks to reduce releases and enhance environmental protection.
7. Establish disaster strike teams to increase assets available for mutual aid.
8. Understand the impact of the green chemistry movement on the local program and take advantage of emerging opportunities to integrate green chemistry into all programs.

IV. APPENDICES

- A. Unified Program Regulatory Performance Model
- B. California CUPA Forum Accomplishments Report

APPENDIX A

UNIFIED PROGRAM REGULATORY PERFORMANCE MODEL

INTRODUCTION

Local environmental regulatory agencies are charged with accomplishing a very broad and challenging mission of “protecting public health and the environment” within a context of ever increasing environmental regulatory scope and complexity, increased staff technical qualification requirements, and continuing budget and funding constraints.

As agencies strive to effectively accomplish this broad mission, they must continually establish and evaluate priorities, implement comprehensive program elements and varied compliance strategies described in this model, seek continual program improvement through innovation, and ensure that all entities subject to regulation are identified and in compliance with program standards.

Management flexibility to continually improve their programs and to allocate and adjust staff resources to address the highest environmental and public safety priorities is essential. However, managers are increasingly experiencing conflicts between their ability to address these priorities and the requirement to meet statutorily mandated “one size fits all” inspection frequencies.

Under current inspection frequency mandates, all regulated entities are subject to the same routine inspection frequency regardless of their prior compliance history, the volume and type of materials or processes subject to regulation, the use or absence of “state of the art” technology, system or facility design and maintenance, proximity to sensitive receptors and similar priority or qualitative “risk based” considerations. Neither do they consider other compliance strategies with proven value.

The Unified Program Regulatory Performance Model (UP-RPM) describes the elements of a comprehensive regulatory program and criteria for priority considerations that would form the framework for establishing a CUPA/Cal/EPA pilot program to test and measure innovative and potentially more effective “Alternative Compliance Strategies”.

These innovative strategies are intended to provide appropriate flexibility in utilization of staff resources to effectively address the highest environmental and public health priorities while maintaining adequate oversight of all regulated entities. This may include less frequent routine inspections of low “risk,” compliant entities to allow for increased resource allocation to oversight of high “risk” entities, more effective enforcement at problem facilities and more complete implementation of essential program elements described in this model.

Required Components

A successful environmental regulatory program involves the simultaneous implementation of several components. These include:

- I. Regulatory Universe Identification:** Identification of all businesses or facilities within a jurisdiction subject to regulation.

- II. Standard Setting:** Clearly established and well publicized sets of compliance standards for each program including statutes, regulations, local ordinances, facility permits, enforceable orders and enforcement settlements.
- III. Education and Outreach:** A robust facility and industry wide outreach program that utilizes several different strategies to educate and facilitate compliance.
- IV. Compliance Verification:** A variety of processes and approaches including routine and alternative inspection/investigation strategies that efficiently utilize resources to verify regulated entity compliance.
- V. Enforcement Response:** A variety of informal and formal regulatory agency actions, used as appropriate, based on the nature and extent of non-compliance.
- VI. Performance Indicators:** Metrics to measure various activities, efforts, results and progress towards regulatory oversight program goals and objectives.
- VII. Coordination:** Coordination with other local, state and federal governmental agencies to more effectively meet common goals
- VIII. Priority Setting and Feedback Systems:** Criteria for establishing periodic program priorities based on compliance conditions within the regulated community, qualitative risk determinations and the success or failure of current compliance verification strategies.

I. REGULATORY UNIVERSE IDENTIFICATION

Fundamental to all programs is the identification of all businesses or facilities within a given jurisdiction that are subject to regulation. An appropriate strategy should be in routine use to identify industries that have not typically been included in the regulatory universe and those entities that should be regulated but have evaded regulatory oversight.

II. STANDARD SETTING

A second foundation component is clearly established and well publicized compliance standards for regulated entities within each program.

Such standards may include statutes, regulations, local ordinances, facility permits, enforceable orders and enforcement settlements.

Industry compliance guides, educational outreach materials and agency regulatory interpretations must clearly match program standards, be consistent and coordinated with appropriate federal, state and local agencies and freely available to the regulated community.

Standards applicable to regulatory agencies, such as mandated inspection frequencies, should include flexibility based on specified criteria, to allow for enhanced agency oversight of facilities or industry sectors that present elevated levels of either short-term or long-term risk.

A regulatory agency's specific inspection/enforcement strategies should be irrelevant and unknown to regulated entities who should expect unannounced inspections at any reasonable time. Full and continued compliance regardless of inspection frequency should be the consistent goal.

III. EDUCATION AND OUTREACH

An effective tool in enhancing compliance is regular use of a variety of educational options that inform the regulated community of compliance standards.

These tools can include newsletters, informational brochures, online resources, and training workshops and seminars as well as technical assistance, compliance manuals and checklists.

This outreach effort can also include the commitment to ongoing coordination efforts with representatives of affected major industry groups and professional organizations.

IV. COMPLIANCE VERIFICATION

A robust use of the full range of compliance verification tools ensures that non-compliance is quickly identified and corrected and those voluntarily complying are not placed at a competitive disadvantage. In fact voluntary compliance, the expectation and core of all environmental regulatory programs, is only realistic when an effective compliance determination program ensures that compliance doesn't result in an economic disadvantage.

Providing satisfactory regulatory oversight with limited resources is a daily challenge for CUPA Program Managers. Crucial to this effort is the ability to allocate staff resources to all elements of a comprehensive program, based on an analysis of need and measures of effectiveness.

V. ENFORCEMENT RESPONSE

Consistent and appropriate use of the available informal and formal enforcement tools and/or techniques to address non compliance, is essential to ensuring a high level of regulatory compliance across program elements.

The Unified Program Inspection and Enforcement Plan, Violation Classification Guidance, Inspection Report Writing and similar documents identify enforcement tools available to UPA s and their appropriate use. -

VI. PERFORMANCE INDICATORS

These indicators measures of program performance should evaluate and communicate the effectiveness of agency activities in relation to the agency mission.

All measures should be: Relevant to program goals, objectives or priorities; Transparent by being accessible, understandable and useful to stakeholders and managers; Credible by being based on complete and accurate data and, Feasible so that the value of the metric outweighs the cost of implementation.

Appropriate metrics may include:

- A. **OUTPUTS** –historic metrics of number of inspections, enforcement actions, number of outreach events or compliance assistance events, penalty amounts, etc.
- B. **OUTCOMES** – these metrics measure the results of the output activities.

- C. TRACKING TRENDS – Changes in metrics over time as opposed to absolute numbers. Data needs to be normalized to present a valid statistic and base data must be available or established.

VII COORDINATION

Local programs need to interface with other governmental agencies to share information and workload and coordinate inspection and enforcement activities. (Other coordination efforts might include industry or environmental groups identified in # III above). Specific coordination efforts should include the following entities:

- A. Environmental Crimes Task forces
- B. Other related regulatory agencies
- C. Law enforcement
- D. Prosecutors

VIII. PRIORITY SETTING AND FEEDBACK SYSTEMS

Criteria used to establish inspection/enforcement priorities should consider issues such as:

- A. Facility compliance history
- B. Nature and type of facility activities
- C. Facility location in relation to potential receptors
- D. Type and quantity of materials handled
- E. Facility engineering or technology
- F. Other enforcement priorities

APPENDIX B



California Certified Unified Program Agency Forum

11 Years of Accomplishments

CALIFORNIA CUPA FORUM

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INTRODUCTION

The CUPA Forum, formed in 1997, is a statewide association of CUPAs and Participating Agencies that implement the Unified Program. The organization works to update and continuously improve the Unified Program for the agencies, businesses and communities we serve. The CUPA Forum provides a single, strong, consistent voice statewide. The CUPA Forum works cooperatively with the State agencies. Cal/EPA and its Boards, Departments, and Offices (BDOs) participate in regional meetings and Technical Advisory Groups (TAGs). The last section of this booklet, beginning on page 14 describes the organizational structure of the CUPA Forum in more detail.

Cal-CUPA Forum objectives include:

- A. To work with all parties, both internal and external, to develop guidance, regulations, and policies regarding CUPA administration.
- B. To establish positions on statewide issues affecting CUPAs and PAs and provide a unified CUPA response to such issues.
- C. To coordinate information exchange between CUPAs and PAs and the State on statewide issues.
- D. To assist in making training available to CUPAs and PAs.

This booklet briefly describes the accomplishments of the California CUPA Forum to date and the projects that are currently being worked on. Many of the projects listed were done (and could only have been done) with the participation of state agencies and their staff.

Projects are grouped into the following areas:

- Improving measurement and communication of CUPA program performance.
- Strengthening state and local agency cooperative efforts regarding regulations, legislation and standards and policies
- Improve resources available to local agencies
- Improve consistency in inspection and enforcement
- Development and delivery of coordinated training opportunities
- Improvement of the data and reporting processes and infrastructure
- Succession planning: Development of a career marketing plan

This is, of course, an ever-changing document and it will be updated annually. The CUPA Forum Board welcome comments and suggestions from our constituents regarding these issues and where we can best focus our efforts.

ACCOMPLISHMENTS

Improving measurement and communication of CUPA program performance

- **Concurrence from the state that enforcement is not the only measure of success.** The state and local agencies reached consensus that formal enforcement activities are not the only, or best, measure of success. Enforcement is a necessary tool to achieve success, but other measures, such as compliance and recidivism rates not only are needed for a complete picture, they are needed to put enforcement activities into context.
- **Cal ARP report.** Howard Wines, Bakersfield Fire Department, developed a report, CalARP: the First Five Years and Beyond, that illustrates the impact that the Cal ARP requirements have had on acutely hazardous materials usage in the state. This report is available on the CUPA Forum website at: www.calcupa.net/programs/calarp
- **Improved CUPA evaluation process.** Resulting in process bases the frequency and nature of the evaluation on the history of the CUPA as noted in the past evaluations, annual reports, and self-audits. This process is more efficient and effective for both the state and local agencies.
- **System for tracking the progress of the CUPA evaluations, implemented April 2006.** The CUPA Forum Board worked with Cal EPA on the development of a system to track CUPA evaluations, which has significantly improved the timeliness of processing the triennial CUPA evaluations by the state.
- **Subject Issue Coordinator.** The CUPA Forum Board established an Issue Coordinator for Unified Program Performance Metrics.
- **Title 27 Data Dictionary Update.** The 2007 changes to the data dictionary allow direct retrieval of annual report data by the state, eliminating the need for CUPAs and PAs to generate annual reports. The changes also clarify how data is structured to improve the consistency of the data collected.

Strengthening state and local agency cooperative efforts regarding regulations, legislation, standards and policies

- **Subject Issue Coordinator.** The CUPA Forum Board established Issue Coordinators for legislation and for the Unified Program Regulatory Performance Model project.
- **Legislative Steering Committee.** This Steering Committee identifies, tracks and addresses legislation impacting the Unified Program. It coordinates the efforts of other Steering Committees, workgroups and TAGs related to legislation.
- **System to identify and address proposed regulatory changes that may affect the Unified Program.** Regulatory proposals and packages are part of the routine communication between the CUPA Forum Board and the state agencies. Regulatory issues are referred to the appropriate group (TAG, Workgroup, etc.) to ensure local agency participation in the process.

- **Single AEO process for all program elements.** This significantly streamlined administrative enforcement, allowing violations in all program elements to be included in a single AEO.
- **Minor violation legislation.** The provision in the hazardous waste law regarding minor violations had been scheduled to sunset. The provision was retained for hazardous waste and expanded to all program elements.
- **Legislative tracking reports.** The Legislative Steering Committee regularly produces reports on the status of legislation that impacts the Unified Program.
- **CESQG/Universal Waste 5% policy.** The hazardous waste law does not specify a minimum inspection frequency for hazardous waste generators. Given the ever increasing workload of Unified Program Agencies, it is difficult for many agencies to accomplish all the inspections that are specifically mandated. However, CESQG and Universal wastes, while not presenting a high level of hazard, do need to have some level of regulatory effort applied to them. This policy provides a standard that the local agencies can use to prioritize workload, and state agencies can use in the evaluation process.
- **Aboveground Petroleum Tank Program Legislation.** Due to a shortage of resources, the SWRCB ceased actively administering the above ground petroleum tank (AGT) program. The SWRCB, Cal EPA and the CUPA Forum Board worked closely together to move administration of this program to local agencies. The goal was to put together a package that would both accomplish the goals of the AGT requirements and would not be unduly burdensome for local agencies to implement. AB 1130 (Laird) passed and became law 01/01/08.
- **Organizational Structure.** The volume and breadth of the issues and projects the CUPA Forum and UPAAG deal with grew significantly overtime. The CUPA Forum Board and UPAAG recognized that this growth happened without the development of a detailed organizational chart or clear relationships between various parts of the organizations and without the use of consistent terminology. Therefore, the CUPA Forum Board and UPAAG developed a consistent, documented organizational structure and set of policies and procedures to guide the organizations' work. The last section of this booklet, beginning on page 14, describes this structure.

Improve resources available to local agencies

- **Guidance Documents.** These documents cover topics such as inspection report writing, administrative enforcement orders, and other topics.
- **Organizational Structure.** The volume and breadth of the issues and projects the CUPA Forum and UPAAG deal with grew significantly overtime. The CUPA Forum Board and UPAAG recognized that this growth happened without the development of a detailed organizational chart or clear relationships between various parts of the organizations and without the use of consistent terminology. Therefore, the CUPA Forum Board and UPAAG developed a consistent, documented organizational structure and set of policies and procedures to guide the organizations' work. The significant features of this re-organization included
- **CFB Website.** The CUPA Forum website (www.calcupa.net) provides a wide variety of resources to local agencies, including a directory, meeting agendas and minutes, guidelines, links, etc.

Improve consistency in inspection and enforcement

- **AEO Guidance Document**
- **Inspection Report Writing Guidance Document**
- **Violation Classification Guidance Document**
- **CAL ARP now a part of the CUPA evaluations.** A survey/review of the program is needed to determine the level of implementation. A follow up project will be to develop an implementation schedule for those CUPA's not properly/fully implementing the program.

Development and delivery of coordinated training opportunities

- **Training Steering Committee established.**
- **Establishment of the Annual Unified Program Conference.** Established in 1998, this conference is the premier Unified Program training opportunity in the state.
- **CDs of selected conference classes.** It is impossible for all agency staff to attend each conference. These CDs allow personnel who were not able to attend in person to view these classes in their entirety.
- **Use of enforcement settlement funds to support training programs.** The SBC, 7-Eleven, and Home Depot are just a few examples of settlements including funds for training of local agency staff. This option is now widely recognized and used by prosecutors.

Improvement of the data and reporting processes and infrastructure

- **Title 27 Data Dictionary Development filed final with OAL on Oct 31, 2007.** The data dictionary had not been updated for almost a decade. In that time, changes to program element statute and regulations had made changes to data requirements that required changes to the data dictionary. In addition, several potential changes were identified that would improve the data dictionary's function. For example, with some modification, Cal EPA could mine the data dictionary for all information required in the annual summary reports, which would eliminate the need for local agencies to generate these reports.

Succession planning: Development of a career-marketing plan

- **Use CUPA Conference to target students.** The CUPA Forum Board works with various colleges to award scholarships for students in related fields to attend the CUPA conference in an effort to raise awareness of the Unified Program as a possible career path

CURRENT PROJECTS

Improving measurement and communication of CUPA program performance

- **Develop a format for an Annual State of Unified Program report, including the program as a whole and the individual program elements.** This report format would be available for multiple purposes: reports to the legislature as needed, reports to organizations such as Cal Chiefs and CCDEH, etc. The format will be coordinated with the performance metrics project.
- **Development of comprehensive program performance metrics.** This project is being coordinated with Cal/EPA's cross BDO Performance Metrics project.
- **Development of a communications plan.** This will be a comprehensive plan for communicating Unified Program issues and successes with all of the Unified Program's stakeholders. Examples of elements that pre-date the plan that are already in place include CUPA Forum and Cal/EPA booths at the annual conference and the Communiqués produced by the CUPA Forum Board.

Strengthening state and local agency cooperative efforts regarding regulations, legislation and standards and policies

- **AST Program development.** New steering committee.
- **H&SC Ch. 6.95 updates.** Currently a concept with draft language developed.
- **Legislation to sunset single walled UST systems.** Single walled tank systems present a more significant environmental threat than do double walled systems. About 10% of the UST systems in California are partially or entirely single walled. UPAAG continues to explore possible avenues for requiring the removal of single walled systems. It is a complex issue, especially in rural areas with few gas stations and small throughputs.
- **Development of CalARP regulation change plan with regulation changes and time frames**

Improve consistency in inspection and enforcement

- **Update and expand the Inspection and Enforcement Guidance Document**

Improve resources available to local agencies

- **AST Program development.**
- **Develop a risk based regulatory program plan that outlines element to be included in a risk based inspection and enforcement plan.** The plan would allow local agencies to develop regulatory programs that most effectively meet the needs of their individual jurisdictions, rather than being strictly required to meet standardized inspection criteria. This is the Unified Program Regulatory Performance Model project.

- **Clarify and update guidance documents related to inspection and enforcement (AEO, report writing, etc.).** This is, of course an on-going process, lead by the Inspection and Enforcement Steering Committee.
- **Achieve full implementation of the UP at farms.** Evaluate scope, outreach plan using CUPA evaluations as a tool, implement plan.
- **Develop a format for Unified Program guidance documents or standards issued by UPAAG groups.** This format would be similar to existing systems, such as Local Guidance Letters from the SWRCB, and the Code Interpretations from the State Fire Marshal's Office.

Development and delivery of coordinated training opportunities

- **Create professional statewide CUPA new staff training resources.**
- **Expand non-conference training**
- **Increase the number of inspector academy classes offered each year**
- **Work with Cal/EPA Enforcement Initiative Training Team on development of a Unified Program web based training tool**
- **Focus class development on those subjects identified as part of the core curriculum for the UP**
- **System to provide UP employee training. Fund the development of the training and attendance at this training with SEP's. Need to develop a SEP policy or guidance on this subject.**

Improvement of the data and reporting processes and infrastructure

- **Unified Program Data System (UPDS).** The state is constructing a data system that will accept all data required to be submitted to Unified Program agencies by business. The hazardous waste generator portion of the system is on-line and available for manual reporting for LQG reports. It will soon be expanded to accept UST and HMBP data. These portions are expected to be on-line December 2008. This is a key component of the Unified Program Data Management Plan. It will provide for a number of important functions, such as a resource for local agencies to obtain background information on multi-location noncompliant businesses, a way for multi-jurisdictional businesses to make submittals to a single place, and will greatly simplify transmittal of data to US EPA.

Succession planning: Development of a career marketing plan

- **Create student outreach processes:** In the coming years, Unified Program agency staff will suffer significant attrition due to retirements. It is vital that there be a sufficient pool of interested, qualified candidates to fill these vacancies. The CUPA Forum Board will be developing an outreach and marketing plan to ensure these candidates are available.

ORGANIZATION OF THE CALIFORNIA CUPA FORUM

The CUPA Forum is organized into four regions: Northern, San Francisco Bay Area, Central and Southern. The CUPA Forum website (www.calcupa.net) identifies the counties that comprise each region. The CUPA Forum Board of Directors is comprised on three members and three alternates from each region, and members at large representing the California Fire Chiefs Association and the California Conference of Directors of Environmental Health. The current Board of Directors is:

Board Officers

Chair: Randy Sawyer, Contra Costa County – Bay Area Region

Vice Chair: Greg Smith, Ventura County – Southern Region

Secretary: Vince Mendes, Fresno County – Central Region

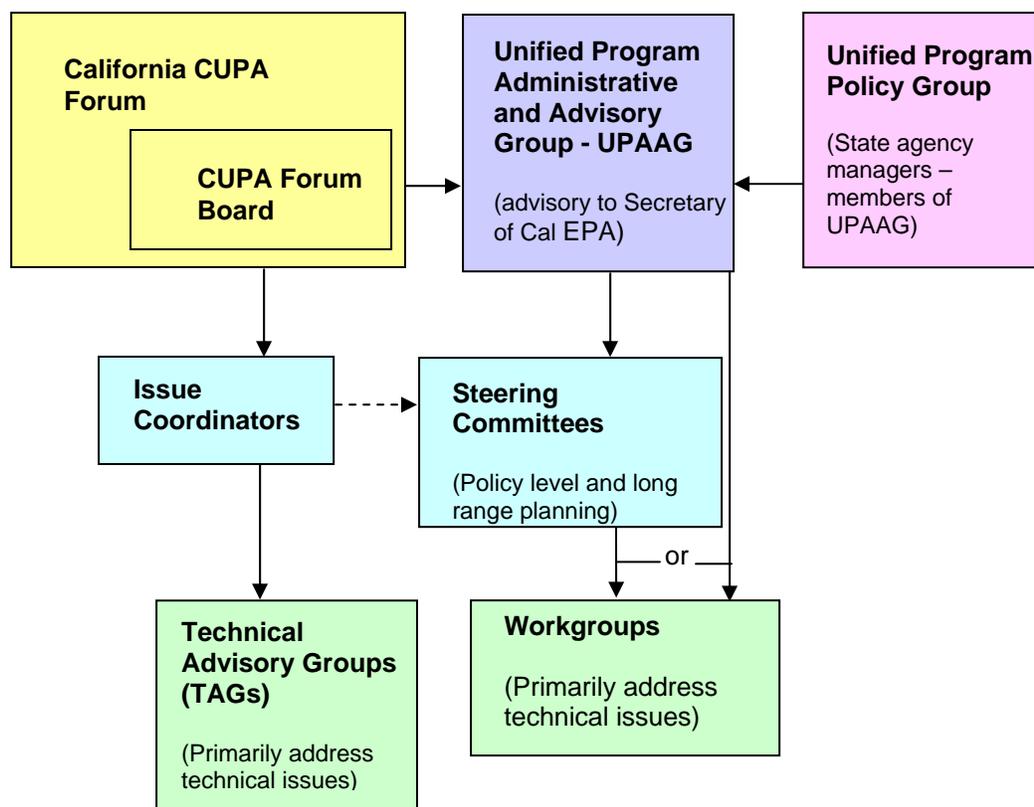
Treasurer: Jason Boetzer, Calaveras County – Northern Region

Regular Board Members

- **Northern California**
Jason Boetzer, Calaveras County
Vance Severin, Butte County
Clark Pickell, Yuba County
- **Bay Area**
Bill Lent, San Mateo County
Dennis Green, Sacramento County
Randy Sawyer, Contra Costa County
- **Central California**
Tim Fillmore, Kings County
Vince Mendes, Fresno County
Joel Martens, Tulare County
- **Southern California**
Greg Smith, Ventura County
Mike Vizzier, San Diego County
Susan Williams, San Bernardino County
- **Members at Large**
Bill Lent, CCDEH
Janet Ortiz, Cal Chiefs

Organizational Structure

The CUPA Forum and the state agencies it works with have established a consistent organizational structure to make our efforts more efficient and effective. The organizational chart shown on the next page illustrates this structure.



Issue Coordinators

Issue Coordinators are the CUPA Forum Board's point people for issues that require significant, focused effort. They are appointed by the Chair of the CUPA Forum Board, with input from the Board as a whole.

The current Issue Coordinators are:

Issue	Coordinator
Aboveground Storage Tanks	Randy Sawyer, Contra Costa County
Annual CUPA Conference	Bill Lent, San Mateo County Bill Jones, LA County Fire
Cal ARP	Howard Wines, Bakersfield Fire
California Fire Code	Janet Ortiz, Santa Fe Springs Fire
California Regulatory Performance Model	Bill Jones, LA County Fire
CUPA Evaluation	Doug Snyder, San Bernardino County Fire
Data Management	Dan Firth, Palo Alto Fire
Emergency Response	Bill Jones, LA County Fire
First Responder	Janet Ortiz, Santa Fe Springs Fire
Hazardous Waste/Tiered Permitting	Susan Williams, San Bernardino County Fire

Issue	Coordinator
ISO Standards	Doug Snyder, San Bernardino County Fire
Legislative	Bill Jones, LA County Fire
Meth Labs	Dennis Green, Sacramento County
Pollution Prevention	Susan Williams, San Bernardino County Fire
Corrective Action	Susan Williams, San Bernardino County Fire
Terrorism	Bill Jones, LA County Fire
Training	Bill Lent, San Mateo County
Underground Storage Tank	Tim Fillmore – Central Region Danielle Stefani – Bay Area Region Jason Boetzer – Northern Region Greg Smith – Southern Region

Technical Advisory Groups

Technical Advisory Groups (TAGs) are groups established by the CUPA Forum Board to provide topic specific support to local agency program staff and to make recommendations to the CUPA Forum Board Membership is limited to CUPA and PA staff, though state agency and industry representatives may attend the meetings. TAGs function within the organizational structure of the CUPA Forum and work directly with the Issue Coordinator for their topic.

Only one TAG is established for any single issue. TAGs may be organized into Regional Sections.

The current TAGs are:

Topic	Co-Chairs
Hazardous Waste	Terry Carrier, Southern Region
Underground Storage Tanks	Northern Region Jim Perez, Plumas County Sylvia Mosse, San Diego County EHS Bay Area Region: Jerry Yoshioka, Contra Costa County Greg Breshears, Santa Clara County Rob Weston, Alameda County Central Region Southern Region Ann Marie Nelson, Santa Barbara County Fire Sylvia Mosse, San Diego County EHS
Corrective Action	Susan Williams, San Bernardino County Fire

Unified Program Administration and Advisory Group (UPAAG)

Local and state agencies have been working together since the inception of the Unified Program to make the program more consolidated, consistent, coordinated, efficient, and effective. This work started with the regulatory workgroup responsible for development of the program regulations, then continued with the Local Unified Programs Implementing Committee (LUPIC) for the certification and start up phase, and is now accomplished through the California CUPA Forum and the Unified Program Administrative and Advisory Group, which consists of the CUPA Forum Board and state agency representatives.

Mission: To protect public health and safety, to restore and enhance environmental quality, and sustain economic vitality through effective and efficient implementation of the Unified Program.

Philosophy: The Unified Program Administrative Advisory Group will continue to play an active role in policy oversight and implementation of the Unified Program. All Unified Program participants at the federal, state and local level shall engage in a quality of communication which enhances mutual trust

Steering Committees: Steering Committees are management level committees established by the Unified Program Administrative and Advisory Group (UPAAG) that develop policy level recommendations. These recommendations are made to UPAAG for approval. The issues addressed involve large, complex, and/or sensitive policy and management issues that need an amount of time and work that is more appropriately done outside of UPAAG meetings.

Steering Committees are co-chaired by a state agency representative and a local agency representative. Membership consists of both state and CUPA Forum Board members.

The current Steering Committees are:

Steering Committee	Co-Chairs
Data	Jim Bohon, Cal EPA Dan Firth, Palo Alto Fire
Underground Storage Tanks	Laura Chaddock, SWQCB Tim Fillmore, Kings County
Inspection and Enforcement	Larry Matz, Cal EPA Bill Jones, LA County Fire
Legislative	Larry Matz, Cal EPA Bill Jones, LA County Fire
Unified Program Regulatory Performance Model	Larry Matz, Cal EPA Bill Jones, LA County Fire

Workgroups

Workgroups are established by the Unified Program Administrative and Advisory Group (UPAAG). Workgroups produce specific, primarily technical work products.

Workgroups may report to a Steering Committee or directly to UPAAG.

Current Workgroups are:

Topic	Reports to	Chair(s)
Aboveground Storage Tanks – Training	UPAAG	John Paine, CalEPA
Aboveground Storage Tanks - Administration	UPAAG	Jennifer L. Lorenzo, CalEPA
Annual CUPA Conference	Training Steering Committee	Bill Lent, San Mateo County Bill Jones, LA County Fire John Paine, OES
CUPA Evaluation	UPAAG	John Paine, OES
Inspection and Enforcement	Inspection and Enforcement Steering Committee	JoAnn Jaschke, CalEPA Dennis Koridis, Sacramento County
Training	Training Steering Committee	Bill Lent, San Mateo County John Paine, OES

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DEPARTMENT OF PESTICIDE REGULATION

I. EXECUTIVE SUMMARY

The California Department of Pesticide Regulation (DPR) protects human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's primary mission is ensuring the safe use of pesticides. Since its creation in 1991, DPR has made significant strides to enhance worker and environmental protections; strengthen uniformity of enforcement in the field while maintaining local discretion and flexibility; streamline the regulatory process to encourage registration of safer materials; encourage the development and use of reduced-risk pest management practices, and use existing and new statutory requirements to ensure the completion of an up-to-date toxicological database for all pesticide active ingredients.

DPR's strict oversight begins with pesticide product evaluation and registration, and continues through statewide licensing of commercial pesticide applicators, dealers and consultants, environmental monitoring, and residue testing of fresh produce and local enforcement through the County Agricultural Commissioners (CACs).

About 340 DPR employees, including scientists from many disciplines, carry out California's pesticide regulatory program. In addition, approximately 280 full-time biologists dedicated to pesticide use enforcement work for CACs providing local pesticide enforcement.

DPR's annual budget is approximately \$64 million of which about \$18 million funds local pesticide enforcement activities in the counties.

Program Structure

DPR uses a "function-based" approach (by fiscal year) to better manage the costs and performance of specific programs which in turn reflect key outputs driven by statutory requirements. The following graphic illustrates how elements of DPR's planning and management system relate to one another. All DPR reporting is on a fiscal year basis.



- The Cal/EPA Strategic Vision sets forth the Agency's vision and mission, core values, and goals and objectives.
- DPR's Strategic Plan provides department-specific strategies, goals and objectives.
- The Operational Plan defines goals and activities that DPR plans to carry out by the end of the fiscal year.
- The functional activity documents list and define DPR's 11 major program functions, their activities and their accounting codes.
- The performance measures include DPR's outputs and environmental indicators.
- The Function-based accounting describes this approach and summarizes spending by function category.

DPR uses various performance measures to assess its programs. Workload outputs are compiled annually by fiscal year to provide the number of products and services that DPR produces, for example, number of licenses issued or groundwater samples collected. These outputs are categorized by DPR's program functions.

The above-referenced documents are available on DPR's website at www.cdpr.ca.gov/dept/planning/performance/index.htm.

DPR has implemented several new programs since 2004 to strengthen its enforcement programs to better protect California's workers, the public, food supply, and the environment. When taken together, the following new programs and approach to program planning and evaluation will lead to improved compliance with pesticide and environmental laws and regulations.

In late 2004, DPR developed program guidance identifying core program priorities to better target county enforcement programs. DPR continues to focus on the three core areas (restricted material permitting, compliance through inspections and investigations, and enforcement).

In 2005, Senate Bill (SB) 391 was implemented augmenting civil penalty authority granted to DPR and the CACs by significantly increasing the fine levels from \$1,000 to \$5,000 per incident. The legislation also allowed DPR and the CACs to cite violators and levy penalties for each person exposed in an incident.

Also in 2005, DPR and the CACs jointly developed the Enforcement Response Policy that laid out a standardized approach to classifying violations and taking appropriate enforcement actions. This policy was formally adopted into regulations in late 2006 and is more fully described below.

DPR has been at the forefront in terms of pesticide data collection both nationally and internationally. Its pesticide use reporting is unlike any other; pesticide illness data has been collected and analyzed for years. Statistics on compliance rates documented through inspections, workload activities and hours, and enforcement actions taken by the counties are submitted to DPR and annual reports prepared. Results from air and ground water monitoring studies are collected and analyzed for specific projects.

DPR has not integrated and analyzed data from these various sources to fully assess the impacts of its programs to improve environmental and human health. In 2007, the Enforcement Branch redirected resources and upgraded positions to begin the process of bringing these systems together to develop an integrated approach to analyzing compliance.

DPR is concentrating its efforts in 2008 on developing sound scientific and statistical procedures and methods to begin the process of fully assessing its programs and their overall impacts to improving human health, food safety, and the environment. In addition, DPR is reorganizing its Enforcement Branch to create a multi-disciplinary team with highly specialized analytical and research skills in the areas of environmental and human health related to the impacts of pesticides, scientific principals, investigative procedures and techniques, and environmental law.

A) 2007 Major Program Highlights

Enforcement Response Regulations (ERR): Consistent statewide enforcement of California's environmental laws is paramount for the protection of California's people, property, and the environment. However, local program administration naturally can result in variable enforcement decisions and responses. After finding inconsistent enforcement of environmental protection laws and regulations by CACs, DPR and the California Agricultural Commissioners and Sealers Association (CACASA) worked together to develop and adopt as guidelines a 2005 Enforcement Response Policy.

In 2006, Governor Schwarzenegger directed the Department to promulgate the policy into regulation. The ERR strengthens environmental enforcement and improves statewide consistency of enforcement responses used by CACs when taking action for pesticide violations. The ERR creates a violation classification system and enforcement response procedure that ensures CACs throughout California follow the same guidelines. The regulations became effective in November 2006 with full implementation during 2007. DPR is working with the CACs and the U.S. Environment Protection Agency (USEPA), to quantify results from these regulations.

Volatile Organic Compounds (VOC) and Field Fumigants: Over the past year, Enforcement scientists have assisted the Environmental Monitoring Branch with the development and implementation of the new VOC regulations that took effect on January 25, 2008. Enforcement staff conducted training to the

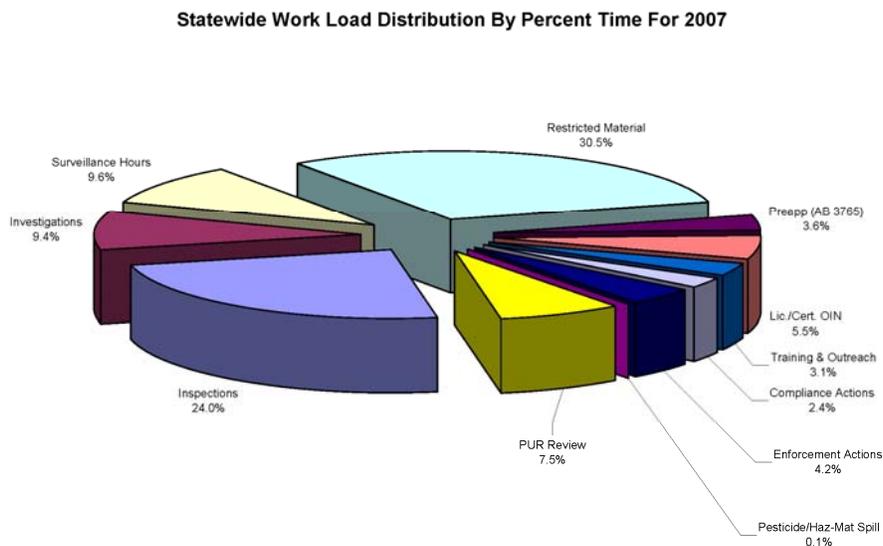
19 counties in the five non-attainment areas of the state that are impacted by the regulations. The training covered determining emissions, requests for allocations, alternative methods and application practices to reduce emissions, and monitoring fumigant applications. In 2008, DPR and the CACs will undertake the development of additional restrictions on the use of other VOC producing products to be implemented in 2009.

Pesticide Use Enforcement Program Standards Compendium: DPR continuously evaluates how it distributes information to the CACs and has determined that use of existing policies and files previously distributed, as CAC Letters is cumbersome and inefficient. The Department is compiling and updating relevant pesticide use enforcement directives, policies, interpretations, recommendations, and expectations into a set of eight subject matter manuals called the Pesticide Use Enforcement Program Standards Compendium (Compendium). The Compendium has become the pesticide use enforcement program standard operating procedures. The Compendium, when fully completed, will be the program standards against which county programs are evaluated. The contents of each volume supersede any position or direction on that subject contained in previous CAC Letters or earlier manuals. This is a complex on-going project drawing from/on all the Department's program areas.

B) What the Reported Data Tells Us

DPR collects significant amounts of data on both its activities, as well as those of the county agricultural commissioners and their staffs. The data sources include:

- The pesticide regulatory activities monthly report (PRAMR) collects statewide workload statistics on county enforcement activities. This database includes information on the number of restricted material permits reviewed, issued, and denied; the number and type of inspections conducted; the number of investigations conducted; the number of pest control businesses and pest control operators (agricultural and structural) registered; the number of private applicators certified; outreach sessions and training provided; etc. The database also includes the hours allotted to each of the workload categories. The following chart breaks down CAC staff hours by major workload category in the performance of their pesticide enforcement activities for calendar year 2007:

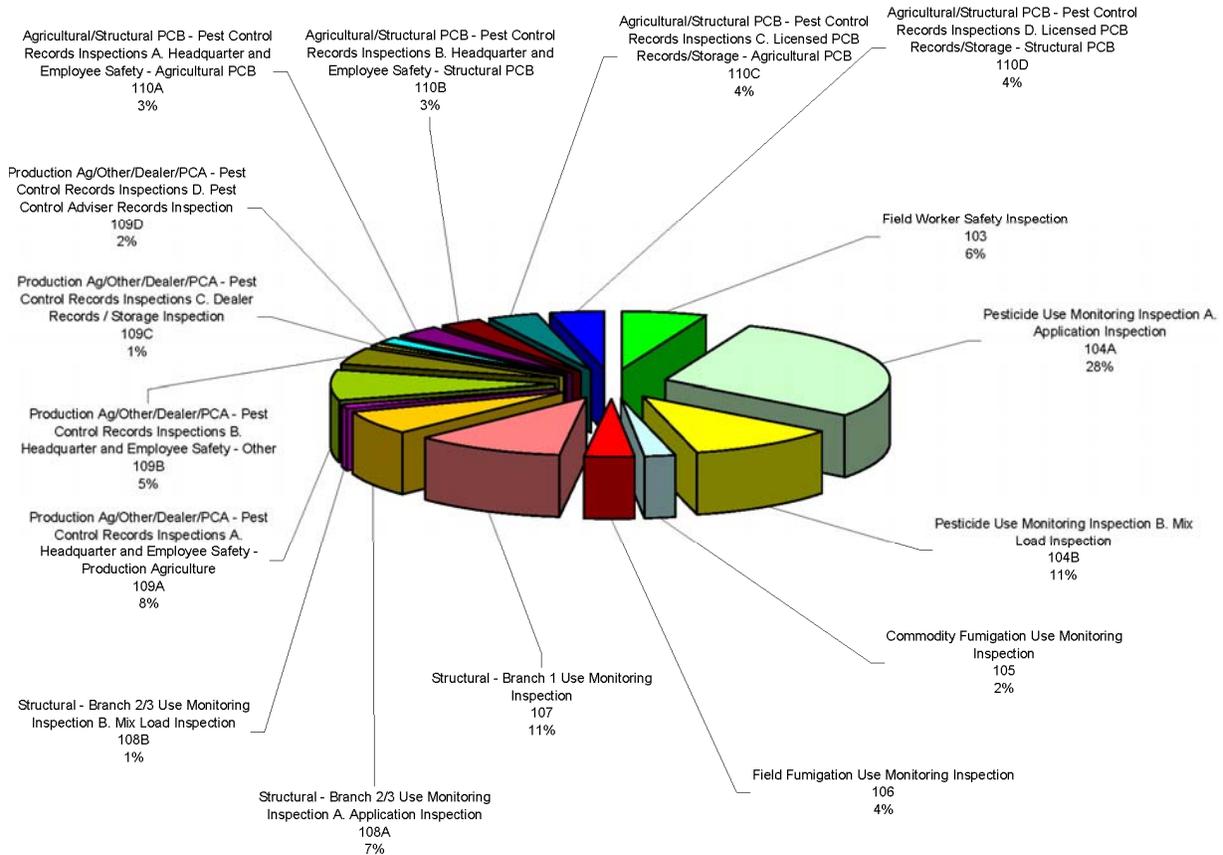


Source: 2007 Calendar Year Query of the Pesticide Regulatory Activities Monthly Report Database

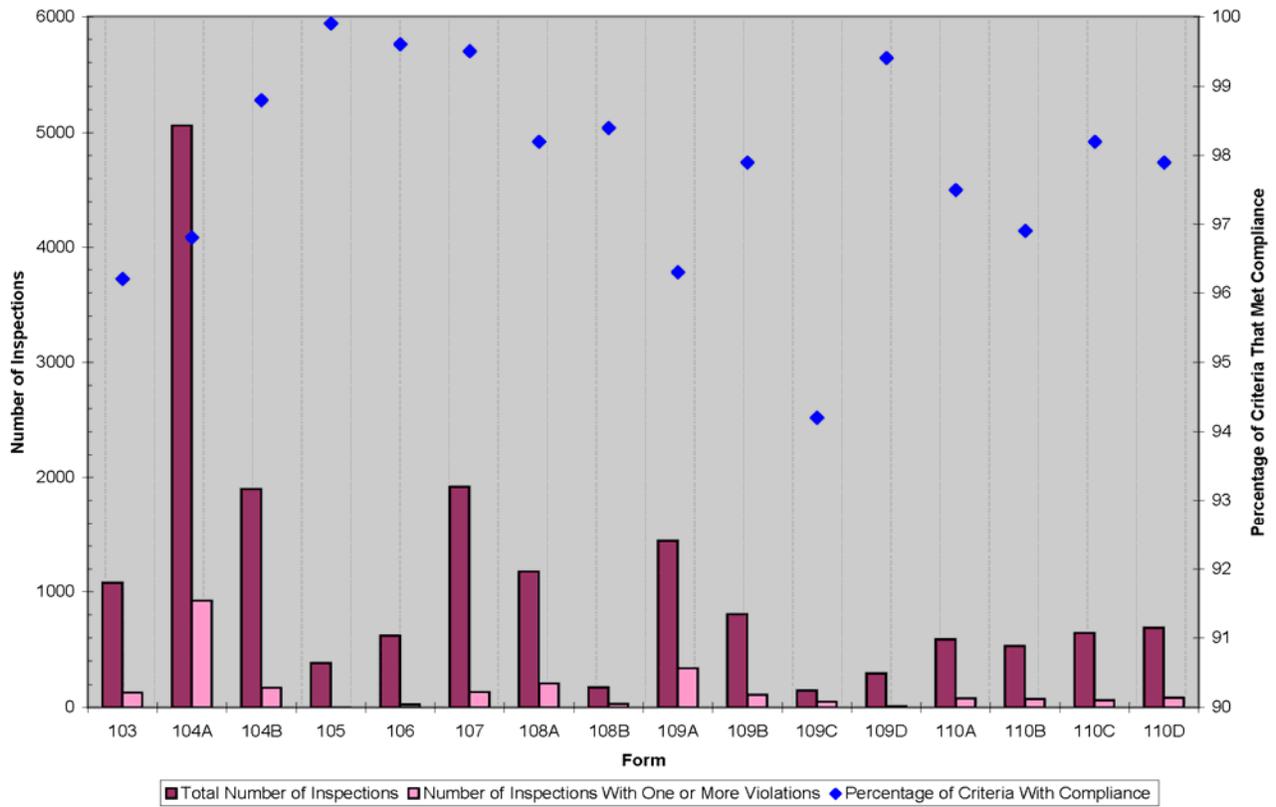
The pesticide use report (PUR) collects information on most all pesticide applications made in the state. Information in this database tells us what pesticide products and active ingredients were applied; how much was applied and the number of acres or units that the pesticide(s) was applied to; and the location of the application.

- The Inspection tracking database collects information on approximately 18,000 inspections conducted by the counties in both agricultural and, non-agricultural (including structural) pesticide use settings and compliance rates with their respective laws and regulations. Information in this database includes the numbers and types of inspections, the sections of laws and regulations that were inspected, and the compliance rates for each item. The following displays the distribution of inspections, compliance rates and the most common violations for 2007:

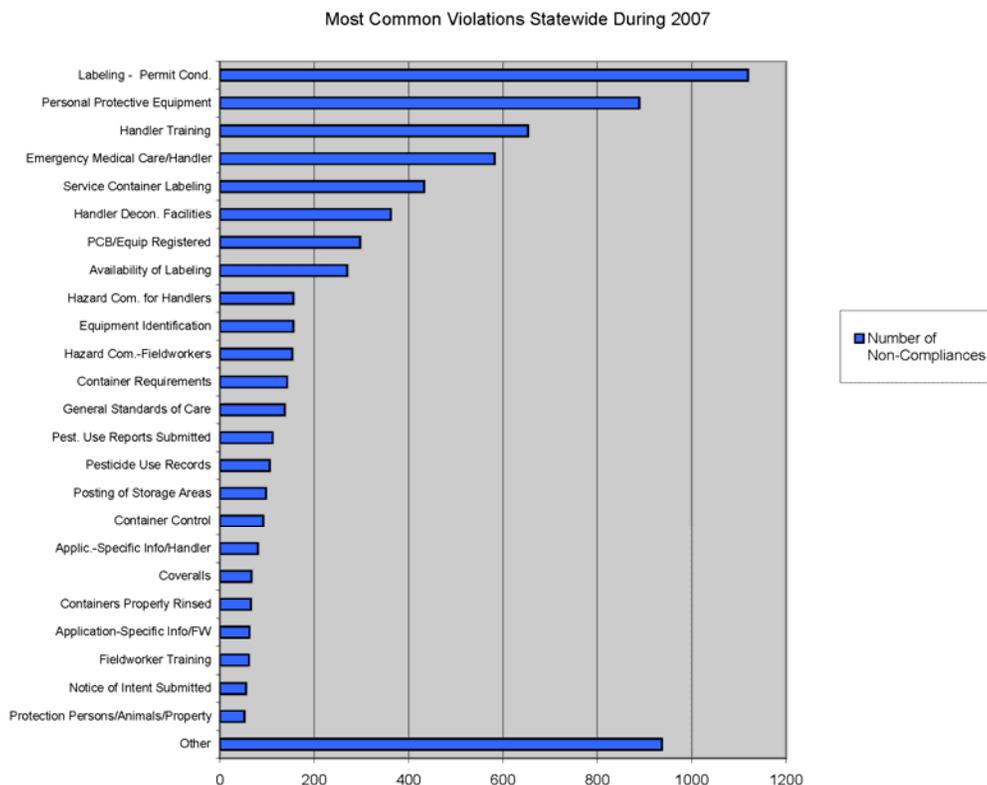
Percent Distribution of Statewide Enforcement Inspections By Type For 2007



Statewide Comparison of Number of Inspections Completed to Those With Violations and Percentage of Criteria That Were Met By Inspection Type During 2007



This chart presents statewide comparisons by inspection form type. It illustrates the number of inspections that were performed during 2007 and the corresponding number of inspections that had one or more violations. In addition, the second y-axis presents the percentage of criteria that met compliance for that particular type of inspection.



The Enforcement tracking system collects information on the enforcement actions taken by the counties and includes the sections of laws and regulations violated and the fine amounts assessed. Information in this database includes the person or firm cited, date of violation(s), section(s) violated, type of enforcement action taken, pesticide(s) involved, date of action, date case closed, proposed fine(s), and final fine(s). This database is useful in determining repeat violators within a county and to determine if there are regional patterns for specific individuals or businesses.

Currently, the data provide basic information used in the development and assessment of (a) DPR's annual work plan and reports to USEPA and (b) county pesticide enforcement work plans and evaluations. The Enforcement Branch determines and sets targets for its own and the counties' annual work plans based on an analysis of the previous year's data.

During the second quarter of 2008, DPR provided USEPA with four years of inspection data including a summary of the numbers and types of non-compliances found and the enforcement actions taken during the same period. USEPA is undertaking an analysis of this data to begin an initial assessment of the impacts and effectiveness of the enforcement response regulations.

C) How DPR Uses This Information

Data collection and analysis are core functions of the work done in the Enforcement Branch and are part of our Performance Goals in our Operational Planning process. Evaluation of data may be used to modify or change performance goals for both DPR and the counties.

The county pesticide regulatory activity workload data are used as one basis for funding a portion of county pesticide activities. (Other funding sources for county pesticide enforcement programs include

county general funds and unclaimed gas tax.) The data are also used to measure a county's annual performance, i.e., did it meet the workload goals stated in its annual work plan.

The pesticide use data are used by DPR staff scientists, in developing dietary risk assessments; assessing potential groundwater contamination from the use of specific pesticides; determining VOC emissions; and assessing impacts on endangered species. Other state and federal agencies, researchers, environmental advocates, and public interest groups use the PUR data extensively in carrying out their programs.

Managers and staff at DPR review inspection and enforcement data to examine the strengths and weaknesses of our program. The data provide measurements of effectiveness about new policies and/or procedures. A recent example is the new ERRs that came into effect in late 2006. DPR and the CACs actively review our enforcement metrics, inspection data, and actions taken to gauge the effectiveness of increasing fines on compliance and recidivism. This review will also assess the impact of the regulations on county workload. It is anticipated that changes to one or more of the above data systems will be necessary to capture changing workload and performance measures.

The proposed Research, Analysis and Administrative team will collect and analyze data available through DPR and other sources for its suitability and restrictions for developing enforcement metrics on a statewide, regional, and local basis. Further, information and analysis will be shared throughout DPR to address worker protection, integrated pest management, water quality, air quality (contributions to smog and ozone depletion), and endangered species protection. In conjunction with DPR management, they will:

- identify activities that pose the highest environmental risk
- identify activities or entities with the highest incidences of non-compliances
- identify chronic or recalcitrant violators (local, regional or statewide)
- identify local, regional and statewide violation patterns
- identify correlations between areas of greatest non-compliance
- set realistic goals for incorporation into DPR activities and county work plans, and develop the methodologies to measure progress
- develop additional environmental indicators

II. DPR'S ENFORCEMENT PROGRAM

A) Overview

Overall Mission Statement

DPR's mission is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.

Organizational Structure

The Department of Pesticide Regulation oversees a multi-tiered enforcement program. The USEPA promulgates federal regulations covering minimum pesticide requirements that are enforced at the State and local (county) levels through cooperative agreements. Over the years, the California Legislature has passed more stringent laws covering pesticide registration, licensing, the sale and use of pesticides, and worker protection.

DPR has primary responsibility to enforce pesticide laws and regulations in California. The CACs serve as the local enforcement agents for State pesticide laws and regulations.

The Enforcement Branch assists and oversees the CACs' pesticide enforcement program, has overall responsibility for pesticide incident investigations, administers the nation's largest state monitoring program for analyzing domestic and imported produce for pesticide residues, and ensures compliance with pesticide product registration and labeling requirements.

DPR, CACASA, and USEPA, Region 9 are parties to a three-way cooperative agreement that ensures a unified and coordinated program of pesticide episode reporting, investigation, and enforcement action in the State of California.

Additionally, DPR has an agreement with the United States Department of Agriculture (USDA) to sample food commodities for the USDA Food Safety Program for both pesticide residues and microbial pests (e-coli, salmonella, etc.).

Program Components: Department of Pesticide Regulation

The size and diversity of California agriculture dictate a much more complex partnership between Federal, State and local pesticide regulatory authorities than anywhere else in the nation in part because the county based regulatory structure predated both the State or Federal regulatory structure.

California Food and Agricultural Code (FAC) section 2281 outlines respective responsibility for joint state and county programs. Enforcement of pesticide laws and regulations is a joint program of the DPR and the CACs.

DPR is comprised of two divisions: Administration and Pesticide Programs. The Pesticide Program Division is divided into seven programmatic branches.

The Enforcement Branch is comprised of Headquarters and three regional offices located in Anaheim, Fresno, and Sacramento. Headquarters' staff develop policies and procedures; direct and manage the department's food safety program; review and make recommendations for product use practices prior to registration, including alternatives and mitigation measures; interpret pesticide labels for compliance with state and federal statutes; analyze, propose and/or develop legislation and regulation; compile and analyze statewide data for use in developing and modifying existing pesticide environmental regulations (air, ground, endangered species), worker protection and food safety programs; and coordinate the structural pest control program with the CACs and the Department of Consumer Affairs, Structural Pest Control Board (SPCB).

DPR's Enforcement Branch oversees all pesticide use enforcement activities of the CACs. The Enforcement Branch provides training, coordination, oversight, and technical support to roughly 280 county agricultural biologists involved in the local enforcement programs. DPR's regional office staff help agricultural commissioners develop annual work plans which detail each county's priorities in improving enforcement, compliance and restricted material permitting.

Throughout the year, the Enforcement Branch's three regional offices work with CAC staff to plan and prioritize pesticide compliance and use enforcement activities. DPR assigns each regional office to work with specific CACs. A senior-level staff member from the regional office, known as an Enforcement Branch Liaison (EBL), is assigned to each CAC.

The SPCB, within the State Department of Consumer Affairs, administers licensing of structural pest control businesses and structural applicators. To avoid duplication of efforts, DPR, SPCB, and the CACs work cooperatively to uniformly enforce pesticide laws and regulations pertaining to SPCB licensees. The CACs carry out local enforcement activities for structural pest control applications.

The Department of Public Health (DPH) oversees the activities of local vector control agencies. DPR, the CACs, and DPH designate and carry out responsibilities regarding vector control practices for public health/mosquito abatement under a memorandum of understanding.

Pesticide Product Compliance activities are jointly carried out between DPR's Product Compliance Branch staff and Enforcement Branch field staff. The focus of the product compliance program is environmental and public protection: making sure products are registered for sale and use in California, are labeled correctly, and that required fees on their sale have been paid.

Program Components: County Agricultural Commissioners

California's pesticide enforcement program stands apart from those of the other states in that it has CACs in nearly all of the 58 counties while other states have inspectors who are employed by the state lead pesticide agency and conduct all pesticide use inspections statewide (Three of California's smaller counties are combined with the CAC offices of others: Sierra with Plumas, Mono with Inyo, and Alpine with El Dorado.). The CACs serve as the primary enforcement agents for State pesticide laws and regulations.

CACs enforce federal and state pesticide laws and regulations at the local level. CACs issue site-specific local permits for the use of restricted materials, conduct on-site application inspections, administer full pesticide use reporting, conduct worker safety inspections, and investigate pesticide incidents

CAC staff inspects the operations and records of growers, pest control applicators, pest control dealers, and agricultural pest control advisers. They also certify private applicators and issue restricted material permits. In addition, CAC staff train pesticide users, conduct pesticide episode/priority investigations, and conduct fieldwork and pesticide handler inspections to assure compliance with worker protection standards and other pesticide use requirements. Fiscal year summaries of county workload can be found in the California Pesticide Regulatory Activities Monthly Report (PRAMR) online at: www.cdpr.ca.gov/docs/enforce/report5.htm .

B) Description of Six Core Regulatory Program Components

1) Oversight of Counties and County Activities

California law designates DPR as the agency responsible for delivering an effective statewide pesticide regulatory program. DPR directly regulates most aspects of this program however the Legislature delegated local administration of the pesticide *use* enforcement program to the CACs. The success of the *statewide* use enforcement program therefore depends on the collective enforcement achievements at the local level. To assure successful local programs, DPR uses its statewide regulatory authority to oversee, evaluate, and improve the CACs' use enforcement programs. State law also requires DPR to provide CACs with guidance, in the form of instructions and recommendations; assist CACs in the planning and development of adequate county programs; evaluate effectiveness of the local programs; and assure that CACs take corrective actions in areas needing improvement.

The purpose of DPR's enforcement program and the CACs is to protect public health, property, pesticide handlers and fieldworkers, and the environment of California. The goal we are also striving for is consistent enforcement across all 58 counties when acting upon pesticide violations. This is accomplished through CACs following the Enforcement Response Regulations as well as creating work plans with directed priorities.

Enforcement branch liaisons (EBLs) are located in DPR's three regional offices (Sacramento, Fresno and Anaheim) and serve as the primary contact point between CACs and DPR. Each EBL is responsible for specific counties and assists the CACs with annual work plans, investigations, training and outreach, as well as label and regulatory interpretations. EBLs are also responsible for assessing the effectiveness of CAC's overall pesticide enforcement program, tracking incident investigations and complaints, evaluations of CAC investigations, and development of cases involving licensees, which may lead to a possible license suspension or revocation by the state.

Annual County Work Plans and Evaluations: As part of an organization-wide effort to incorporate continuous quality improvement into California's pesticide enforcement program, DPR and the CACs developed a cycle that includes state and local program review, planning, implementation, and evaluation. DPR's guidance represents a simplified approach in targeting core enforcement program priorities and evaluating the effectiveness of county programs. In turn, county work plans identify state, regional, and local compliance problems, emerging issues, and measurable solutions based on available resources. Jointly developed performance standards are used by DPR to evaluate the effectiveness of the county's enforcement program.

DPR's three regional offices help CACs develop annual work plans that detail each county's priorities in improving enforcement, compliance and permitting. The work plans have clearly stated goals and performance measures, balancing DPR's statewide enforcement priorities with local conditions unique to each county. Work plans, by county, can be downloaded below.

DPR regional staff also evaluate CAC performance, using objective-based performance measures that examine how well counties are targeting local problems and patterns of continuing violations.

In September 2008, DPR will post the county enforcement statistics and DPR's county work plan evaluations at: www.cdpr.ca.gov/docs/county/enf_stat_profile.htm.

As noted earlier, DPR does not track its workload (inputs, outputs and outcomes) on a calendar year basis. DPR fiscal year program metrics are available on its website at www.cdpr.ca.gov/dept/planning/performance/index.htm.

In 2007, the CACS reported the following preliminary statewide workload statistics.

2007 Preliminary CAC Reported Workload Statistics - Inputs	
CAC Licensed Work Hours	495,000
CAC Support Hours	650,000
2007 Preliminary CAC Reported Workload Statistics – Outputs	
Restricted Material Permits Issued	39,000
Operator Ids for Non-Restricted Use Issued	13,200
Agricultural Use Inspections	7,600
Field Worker Safety Inspections	1,100
Commodity Fumigation Inspections	400
Rice Herbicides Applications Inspections	830
Records Inspections	5,130
Structural Pest Control Use Monitoring Inspections	3,370
Notices of Intent Reviewed	152,220
Pre-site Application Evaluations	11,000
Training and Outreach Sessions	1,260
Inspections Conducted	17,500
Total Number of Criteria Evaluated	315,800
Total Number of Criteria in Compliance	309,500
CAC Compliance Actions	3,850
Investigations	1,660
CAC Enforcement Actions	1,200
Number of Enforcement Cases Closed	1,200
Amount of Civil Penalties Assessed	\$420,000
Number of Cases Referred to District Attorney	2
Private Applicator Certificates Issued	6,400
Pest Control Business /Advisors / Pilots licenses Issued	12,6000
Farm Labor Contractor Licenses Issued	2,200
Structural Pest Control Business Licenses Issued	5,520
2007 Preliminary CAC Reported Workload Statistics - Outcomes	
Inspections with 1 or More Violations	2,430
Inspections with 100% Compliance Rate	86%

2) Food Safety

Our Food Safety Program is designed to monitor compliance with pesticide laws and ensure that all food is in compliance with pesticide safety standards. Sampling and laboratory analysis serve to detect each of the two categories of illegal residues: (1) pesticide residues that exceed established tolerance levels, and (2) residues of pesticides for which no tolerance has been established for a specific crop. When illegal residues are found, DPR reacts immediately by removing the illegal produce from sale, and then verifies that the produce is either destroyed or returned to its source. In addition, if the owner has similar produce from the same source, DPR quarantines that produce until the laboratory verifies that it is free from illegal residues. Further, DPR traces the distribution of the illegal produce by contacting distributors throughout California, imposing additional quarantines and conducting additional sampling as needed.

DPR administers the state-mandated *Pesticide Residue Surveillance Program* that involves produce sampling and data collection activities. DPR's Program is the most extensive state residue-monitoring program in the nation. It is the final check in an integrated network of programs designed to ensure the safe use of pesticides in California.

DPR Enforcement staff samples individual lots of domestically produced and imported foods and analyses them for pesticide residues to enforce the tolerances set by USEPA. Samples are collected from throughout the channels of trade, packing sites, and the wholesale and retail markets. In addition, selected samples receive specific analysis for non-screenable pesticides of dietary concern. The Department and CACs investigate every incident of illegal residue detected in the residue-monitoring program for California grown produce. Actions for over-tolerance and no tolerance established residues include stop sales, crop destruct, etc.

Another component of our Food Safety Program is our participation in USDA's Pesticide Data (PDP) and Microbiological Data Programs (MDP).

PDP: USDA started PDP in 1991 to test commodities in the U.S. food supply for pesticide residues. PDP tests for over 290 pesticides in over 50 different food commodities. This program maintains an electronic database that serves as a central data repository. USDA prepares annual summaries of the PDP data that are publicly available on the Internet. The report provides data on pesticide dietary exposure, food consumption, and pesticide use. PDP data are used by the USEPA, to make realistic assessments of dietary pesticide risk and for the ongoing review of pesticide tolerances. Besides USEPA, the U.S. Food and Drug Administration (US FDA), academic institutions, food producers, chemical manufacturers and environmental groups use PDP data. PDP data are statistically representative of the overall residue situation for a particular pesticide, commodity, or place of origin.

MDP: The goal of the MDP Program is to provide data on the presence of foodborne pathogens and indicator bacteria on fresh fruit, vegetables, and more recently, fish. MDP currently tests for six microorganisms: generic E. coli, shiga toxin producing E.coli (STEC), enterotoxigenic E.coli (ETEC), E.coli 0157:H7, Salmonella, and Shigella.

During 2007, DPR collected samples of fresh produce and food commodities for analysis. The following is a preliminary summary of the findings:

2007 Food Safety - Samples Collected - Outputs	
Number of State Residue Program Samples Collected	3,565
Number of Samples Screened	3,559
Number of USDA – PDP Samples Collected	2,632
Number of USDA – MDP Samples Collected	420
Total Number of Samples Collected (Residue, PDP & MDP)	6,614
2007 Food Safety – State Residue Sample Analyses Results - Outcomes	
Number of samples with No Residues Detected	2,230
Number of samples with Residues Detected	1,335
Number of Samples Over-Tolerance	4
Number of Samples with No Tolerance Established	41

3) Registration and Product Compliance

Pesticide Product Compliance activities are jointly carried out between DPR's Product Compliance Branch staff and the Enforcement Branch staff. Pesticides that are sold or offered for sale in California are required to be registered by both DPR and the USEPA. To ensure products bearing claims to control pests are registered and in compliance with State and Federal pesticide laws and regulations, DPR performs inspection and compliance activities under both a State mandated program and as part of DPR's Consolidated Cooperative Agreement with USEPA. Under the current pesticide product compliance program, DPR field inspectors conduct inspections at manufacturing facilities and business throughout the state.

To make sure pesticides are safe to use in California, they must be evaluated not only by USEPA but also by DPR scientists before being allowed on the market here. Before a product can be registered in California, it must be evaluated to ensure it can be used safely under California conditions – whether in an agricultural field or an urban setting. Before registration, DPR scientific staff reviews data on the product to ensure that it is properly labeled and will not cause health or environmental problems. Unregistered products – sometimes sold over the Internet or by mail order – have not undergone this kind of scrutiny and may pose unrecognized hazards to health or the environment.

To ensure pesticides have California registration, specialists from DPR's Product Compliance and Enforcement Branches conduct about 350 inspections a year wherever pesticides are sold. When staff uncovers sales of unregistered pesticide products, sellers must pay any money and interest owed, and they are subject to civil penalties. The same goes for sellers who fail to pay the fee levied on pesticide sales.

Mill fees must be paid on all pesticide sales, whether agricultural or non-agricultural products. This includes not only insecticides and herbicides, but also many products not generally thought of as pesticides, including sanitizers, disinfectants, mildew removers, pool chemicals, and insect repellants. Ensuring that all pesticide sellers pay the required mill fee brings equity to the marketplace.

During 2007, DPR conducted inspections and investigations to ensure compliance with product registration and mill assessment reporting (funds collected based on sales of product into California). The following is a summary of these preliminary statistics:

2007 DPR State Product Compliance Activities – Outputs	
Number of Product Compliance Inspections Conducted	290
2007 DPR State Product Compliance Activities – Outcomes	
Cases Forwarded to EPA for Action	54
Number of Findings of Unregistered Products	535
Case Final Settlements	\$1,776,293

Note: In addition, DPR Staff conducted 60 County Oversight Inspections, with 199 warnings issued and 23 cases with assessed fines.

Statewide Licensing of Persons and Businesses Related to Pest Control Work During 2007, DPR administered examinations, issued new and renewed licenses or certifications in the following categories:

2007 DPR Licensing and Registration Figures for 2007 - Outputs	
Number of Registered Products	11,944
Number of Pesticide Registrants	1,306
Number of Pest Control Dealers	760
Number of Qualified Applicators	6,406
Number of Pesticide Brokers	130
New Licenses and Certificates	1,717
Renewed Licenses and Certificates	12,500
Exams Administered	9,100

4) Pesticide Use Reporting (PUR)

California's pesticide use reporting program is recognized as the most comprehensive in the world. In 1990, California became the first state to require full reporting of agricultural pesticide use in response to demands for more realistic and comprehensive pesticide use data. Under the program, all agricultural pesticide use must be reported monthly to the county agricultural commissioner, who in turn, reports the data to DPR.

Pesticide use reports help DPR estimate dietary risk and ensure compliance with clean air laws and ground water regulations. Site-specific use report data, combined with geographic data on endangered species habitats, help CACs resolve potential pesticide use conflicts. DPR also uses the data to analyze how, when and where pesticides are used on different crops. Reduced-risk pest management alternatives can then be developed considering the different regions of the State and commodities grown in these regions.

Annual statewide and county specific pesticide use data summaries by commodity and by pesticide dating back to 1989 (the last year prior to implementation of full use reporting) can be obtained from DPR's website at www.cdpr.ca.gov/docs/pur/purmain.htm.

Queries against the PUR databases dating back to 1990 can be run from the California Pesticide Information Portal website at www.cdpr.ca.gov/docs/pur/purmain.htm.

Pesticide Use

Based on preliminary 2007 reported pesticide use data, approximately 172,478,144 pounds of pesticides (active ingredients) were applied statewide. This represents applications to both agricultural and non-agricultural (structural, public health, and regulatory) settings.

2007 Pesticide Related - Inputs	
Pesticide Products Registered for Use	11,944
Agricultural Pest Control Businesses	
Agricultural Pest Control Operators, Advisers, & Pilots	
Structural Pest Control Businesses	
Structural Pest Control Operators	
Private Applicators	6,400
Property Operators (Restricted & Non-Restricted)	52,000
2007 Pesticide Use - Outputs	
Number of Production Agriculture Applications	2,185,605

2007 Pesticide Related - Inputs	
Number of "All Other" Applications	12,517,405
2007 Pesticide Use - Outcomes	
Pounds of Pesticide Used in Production Agriculture	157,896,514
Pounds of Pesticide Used in "All Other" Applications	14,581,631

"All Other" applications include post-harvest commodity fumigations, landscape maintenance in parks, cemeteries, and golf courses, and rights of way; structural and public health (vector control) pesticide applications. Under current regulatory requirements not all applications are reported (home use, indoor industrial and institutional), creating a data gap in the "total" figure.

5) Structural Pest Control

DPR is signatory of a three-way Memorandum of Understanding (MOU) with the SPCB and CACASA to ensure a uniform and coordinated Structural Pest Control Enforcement Program. DPR has primary authority for regulating structural pesticide use. Working with DPR, the commissioners take the lead on investigations of unlicensed structural pest control activity. Commissioners' and SPCB's staff periodically perform similar enforcement activities such as business office and records inspections. When the SPCB encounters possible pesticide use violations, they refer those findings to the commissioner for "follow-up" investigation.

CAC's conducted 3,270 structural pest control use-monitoring inspections in 2007, based on preliminary data. SPCB administers licensing of structural pest control applicators, field representatives, structural pest control operators, and registered companies; enforces licensing provisions; and ensures consumer protection.

Currently three counties (Orange, Los Angeles, and Santa Clara) participate in an expanded Structural Pest Control Enforcement Program. In 1993, local structural pest control industry officials in Los Angeles and Orange counties requested their respective CACs to increase monitoring of the structural fumigation industry due to their knowledge of substandard structural fumigations that were damaging the reputation of the local structural pest control industry. Los Angeles and Orange counties have been participating in the program since its inception; legislation passed in 2007 added Santa Clara County to the Program. Pending legislation will add San Diego to this enhanced inspection program.

To pay for the program, structural pest control companies (in participating counties) pay \$5 per structural fumigation to the CAC. This increased level of funding allows for increased inspections and associated structural fumigation enforcement activities. These expanded activities are critical to gaining a higher level of compliance with pesticide laws and regulations that result from an increased presence of county inspectors in the field. This program helps to ensure the health and safety of workers, the public, and the environment. This bill has the support of the structural pest control industry.

New Structural Pest Control Regulation

Assembly Bill (AB) 1717 (Effective January 1, 2008) replaced the annual county notification requirements for structural pest control businesses and licensees with a county registration program. Importantly, this new law requires that 24-hour advance notice be provided for all structural fumigations. The Enforcement Branch issued guidance to the CACs on implementation of the new regulations. Twenty-four hour notice of structural applications will assist the CACs in locating applications to monitor and inspect.

A second bill (AB 126, effective January 1, 2008) expanded the structural fumigation inspection program to Santa Clara County. With the increased funding from the \$5 fees, Santa Clara County anticipates to increase by 50% to 100% the number of onsite sulfuryl fluoride structural inspections it conducts. The expanded presence of county staff in the field is critical to gaining a higher level of compliance with pesticide laws and regulations.

6) US EPA Cooperative Agreement

USEPA is responsible for administering and enforcing the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which in part states that a “state shall have primary enforcement responsibility for pesticide use violations when the state has adopted and is implementing adequate use regulations or has entered into a cooperative agreement with USEPA specific to pesticide enforcement.”

DPR-US EPA Work Plan

DPR develops its annual work plan and mid-year report in consultation with the USEPA based on the current fiscal year joint EPA Office of Pesticide Programs /Office of Enforcement and Compliance Assistance (OPP/OECA), State/Tribal Cooperative Agreement Guidance and Region 9's guidance letter.

The work plan provides an overview of each key area of the state program and branch activities related to it outlines the conduct of the activities, and lists specific deliverables DPR will provide to Region 9 on a quarterly, mid-year, and/or end-of-year timeframe. Included are types of training DPR will conduct or participate in, lists of rulemaking recently passed or pending, DPR policy interpretations to the CACs, and the number of anticipated and agreed upon inspections in all categories, as well as priority investigations and our enforcement response.

DPR and USEPA Region 9 staff meet at least semi-annually to review progress and to develop/refine program goals.

2007 DPR Federal Activities per USEPA Cooperative Agreement - Outputs	
Producing Establishment Inspections (PEI)	40
Product Compliance Inspections	130
County Oversight Inspections	230
Total Inspections Conducted	400
Samples Collected	35

Enforcement Program Metrics

Data Characteristics

The DPR developed a summary of annual statewide CAC pesticide enforcement program statistics. This first annual California Pesticide Use Enforcement Profile consolidates CAC data from several DPR database sources.

The profiles were developed to look at available data in a different, more comprehensive format. The CACs and DPR may use this information to develop county enforcement work plans, conduct effectiveness evaluations, and to:

- Identify trends and program changes

- Identify CAC staff training needs
- Identify industry outreach needs
- Improve inspection compliance
- Develop inspection targeting programs
- Compare county data to statewide, regional, and/or other counties with similar characteristics

Trends in Key Enforcement Indicators Over Time

DPR has been collecting inspection compliance data from the counties since 2003/04. As with any new system, the data quality in the first few years was poor. Although it has improved in the last two years, the system lacks sophisticated validations and must rely on data entry instructions and ongoing manual reviews to ensure data quality. DPR will continue to compile basic statistics on the number of violations, violation types and categories, and overall compliance rates.

As noted earlier, DPR adopted the enforcement response regulations in late 2006. These regulations are intended to strengthen environmental enforcement and affect statewide consistency of enforcement responses used by the CACs when acting upon pesticide violations.

The regulations are used to determine the appropriate type of enforcement response in a given case is a two-step process:

1. Classify the type of violation.
2. Consistently determine the appropriate action and use progressive enforcement response.

Unfortunately, we will not see the true impact nor be able to accurately gauge the true change in compliance rates for several years as it takes a minimum of five years to accurately and effectively measure the results and see long term change.

DPR captures data on enforcement actions once the action is closed and all appeals have been exhausted. It is important to note that there is a two-year statute of limitations from the time of the violation to the time the county must take an enforcement action. In addition, the respondent is entitled to several levels of appeal that may prolong the time of closure for any single case. For these reasons, DPR does not anticipate that it will be able to fully assess the impacts of the enforcement response regulations until 2010 and beyond.

Once fully integrated systems are available in the future, DPR will be able to evaluate violations in relation to pesticide use patterns, correlate enforcement actions with specific illnesses or other investigations, and assess the impacts of regulatory programs. This will allow DPR to refine and focus strategic and operational goals and priorities.

Program Inputs

In 2007, the Enforcement Branch hired two senior staff positions to begin the process of thoroughly analyzing the data DPR collects in all of its programs in order to assess the impacts of its regulatory programs on compliance and protection of workers, human health, and the environment. At this time, DPR has minimally been able to accomplish the above-stated goals for use of the data.

Enforcement Branch by Location – Inputs	
Headquarters	
Branch Chief	1
Supervisors / Program Managers	3 Managers, 20 Staff
Regional Offices	
Northern Regional Office	1 Manager, 11 Staff
Central Regional Office	1 Manager, 14 Staff
Southern Regional Office	1 Manager, 9 Staff
Environmental Program Manager	1
Agricultural Program Supervisor	1
Senior Environmental Scientist	4
Staff Environmental Scientist	3
Environmental Scientist	26
Program Specialists	12
Senior Special Investigator	1
Pesticide Use Specialist	3
Staff Services Analyst	2
Management Services Technician	1
Office Technician	3
Scientific Aid	3

Program Outputs

Summary of DPR & CAC Enforcement Program - Outputs	
Inspections	
Per US/ EPA Cooperative Agreement	754
CAC Inspections	17,500

Program Outcomes

Summary of DPR & CAC Enforcement Program - Outcomes	
Administrative Enforcement Actions	
CAC Civil Penalties	\$420,000
DPR Cases (Unregistered Products)	117
Number of Unregistered Products in Case Settlements	356
DPR Case Final Settlements	\$1,776,293

The data sources used in the Statewide California Pesticide Use Enforcement Statistical Profile include PRAMR, PUR, and Inspection Tracking, and Enforcement Action databases. Also included is CAC funding information from DPR and the California Department of Food and Agriculture (CDFA). The Profile does not include county general funds allocated in each county to support the local program. The data used are from fiscal years 2004-2005 through 2006-2007 and are available on DPR's website at: www.cdpr.ca.gov/docs/county/enf_stat_profile.htm.

The California Pesticide Use Enforcement Statistical Profile consists of the following:

- Annual Statewide Pesticide Enforcement Program Statistics: General statistics about the CAC program drawn from the PRAMR and PUR databases, and funding disbursed by CDFA via the unclaimed gas tax distribution and by DPR via the mill assessment.

This is a three-year side-by-side comparison of several statistics regarding restricted materials permits (such as number of: permits issued, permits denied, multi-year permits, sites, and notices of intent reviewed, assessed and denied), pounds of pesticides used, number of applications, number of inspections and CDFA and DPR funding. This information can be used to identify significant year-to-year reductions or increases that may impact the county's overall pesticide enforcement program.

- Statewide Work Load Distribution by Percent Time: Pie charts showing workload distribution by percentages of time dedicated to various categories of the CAC pesticide enforcement program (PRAMR)

The pie charts show a two-year side-by-side comparison of CAC time spent in eleven different categories of pesticide use enforcement work. This information identifies areas where excessive or minimal time is dedicated to specific work categories that may not be appropriate for an individual program. It can also be used to identify significant year-to-year reductions or increases that may impact their overall pesticide enforcement program.

- Statewide Inspection Compliance: Compliance information from the various types of inspections conducted by the CACs and a summary of the number of compliance and enforcement actions taken (Inspection Tracking Database).

These tables list the numbers of inspections and compliance rates for each inspection type the CACs conduct for each year. It also shows the number of criteria out of compliance per inspection, the percentage of inspections with 100 percent compliance, and the number of inspections where one or more violations were found.

The last number on the table can be compared with the number of compliance and enforcement actions taken during the same period, however, the numbers do not correlate directly. Not all compliance and enforcement actions are closed during the fiscal year in which it is initiated. Additionally, some actions may result from the discovery of violations by means other than inspections, such as investigations.

This information can be used to identify areas of particularly low compliance where industry outreach or changes in targeting strategies may be used to improve compliance. Areas of particularly high compliance where DPR's field experience indicates that the compliance rate is not as high, may identify a need to review the CAC's inspections to determine if additional training is appropriate for CAC staff.

- Most Common Violations-Statewide: A listing of the most frequently cited code section violations on CAC inspections (Inspection Tracking)

They can be used to indicate areas where industry outreach and training is most needed.

Environmental / Health Outcomes

Environmental Indicators (EPIC) to Report on Key Environmental Trends

The following environmental protection indicators are highlighted in this report since DPR collects, analyzes, and publishes detailed annual reports on these program areas. The annual reports, along with trends analyses, are quite comprehensive. DPR publishes these reports and makes them available on its website. See below for specific website locations.

Residues in Food

If pesticides are used properly and according to label instructions, there should be no illegal residues on harvested produce. Tolerance levels for pesticide residues on produce are intended to protect against adverse impacts on human health. The presence of illegal residues may indicate improper or illegal pesticide use, as well as problems in the state's integrated network of pesticide regulatory programs. Illegal pesticide use can also adversely impact the health of wildlife and sensitive ecosystems.

DPR samples individual lots of domestic and imported produce and analyzes them for pesticide residues to enforce the tolerances set by the USEPA. Samples are collected from throughout the channels of trade--at points of entry (seaports and state border stations), packing sites, and the wholesale and retail markets. Samples are taken to a CDFA laboratory where all are tested with multiresidue screens capable of detecting more than 200 pesticides and breakdown products. In addition, selected samples receive specific analyses for non-screenable pesticides of enforcement concern.

Annual reports summarizing the results from all samples collected during the calendar year, along with the detailed data, are available from DPR's website at www.cdpr.ca.gov/docs/enforce/residue/rsmonmnu.htm.

In addition, annual reports of the the data analyzed from samples DPR collects, as well as data collected by other states, under the USDA's PDP and MDP are available from USDA's Agricultural Marketinhg Services website at www.ams.usda.gov/AMSV1.0.

Pesticide Use

Pesticides can be applied in a manner that increases the quality and production of agriculture and enhances public sanitation (water, food preparation, etc.). However, these benefits are not without risks to human health and the environment. Because pesticides are designed to be toxic to unwanted organisms, there are many public concerns about the widespread use of pesticides and the potential risks they pose to human and environmental health.

DPR analyzes PUR data to provide both an overview of pesticide use in California and, along with information from other sources, provide some explanations for the trends of pesticide use.

The summary reports of pesticide use by crop and active ingredients for each year provide hundreds of pages of numbers. In such a mass of data, it is difficult to get an overview of the most used pesticides or most heavily treated crops and how the uses of these pesticides have changed over the years. Also, even though these summaries provide significant information, additional information is available in the database that cannot be easily captured in summary format. Additional data includes the pesticide product used, the date it was applied, the particular field treated, and application location to a square-mile section.

These data are studied in detail and analyzed in a number of different ways to help us understand some of the reasons for the patterns and trends in pesticide use. These kinds of analyses can help granting agencies understand where efforts to promote reduced-risk pest management strategies are succeeding or failing, help researchers better identify emerging challenges and direct research attention to finding solutions, help regulators arrive at realistic policy decisions that are both environmentally and economically sound, and help the public understand why certain practices are used. The most recent trends analysis summarizes pesticide use from 1996 through 2006 for eight different pesticide categories according to certain characteristics including:

- Reproductive toxins
- Carcinogens
- Insecticide organophosphate and carbamate chemicals
- All chemicals categorized as ground water contaminants
- Chemicals categorized as toxic air contaminants
- Fumigant chemicals
- Oil pesticides which include many different chemicals, but the category used here includes only ones derived from petroleum distillation. Some of these oils may be on the State's Proposition 65 list of chemicals "known to cause cancer" but most serve as alternatives to high-toxicity pesticides. Oils are also used by organic growers.
- Biopesticides that include microorganisms and naturally occurring compounds, or compounds essentially identical to naturally occurring compounds that are not toxic to the target pest (such as pheromones).

For more detailed information on pesticide use and trends, annual analyses are available on DPR's website at www.cdpr.ca.gov/docs/pur/pur97rep/pur_anal.htm

Human Health

Pesticides have been associated with adverse effects on human health. Given the nature of their contact with pesticides, agricultural and pest control workers are most likely to face exposure to pesticides. The public may be exposed to pesticides in water, soil and air due to misuse or drift from sprayed areas. Consumers may face exposure from home-use pesticides, or to pesticide residues in food. Unacceptable risks may be avoided when pesticides are used properly, and when pesticide laws and regulations are enforced vigorously and consistently.

The Pesticide Illness Surveillance Program (PISP) maintains a database of pesticide-related illnesses and injuries. Case reports are received from physicians and via workers' compensation records. The local CAC investigates circumstances of exposure. Medical records and investigative findings are then evaluated by DPR technical experts and entered into an illness registry. This data helps validate the effectiveness of exposure control measures and identifies areas where improvements are needed. Analyses of trends in illness and injury produced by a particular pesticide or activity also provides direction for the Exposure Monitoring Program, Industrial Hygiene Program, and Exposure Assessment and Mitigation Program.

Annual reports are prepared from the PISP database and summarize illness data by:

- State and county
- Type of illness and type of pesticide
- Type of activity and type of exposure
- Specific pesticide and type of illness
- Occupational status and location of incident

- Gender, age distribution, type of pesticide and type of use
- Pesticide handler activity (applicator, mixer/loader, flagger, etc.)

Annual reports dating from 1996 to 2007 that provide detailed information can be obtained from DPR's website at www.cdpr.ca.gov/docs/whs/pisp.htm

Ecological Health

Pesticides are designed to be toxic to target pests. While their use instructions are intended to prevent adverse impacts on non-target species, including wildlife, there have been instances when pesticide use has been linked to adverse impacts on birds, bees, and other non-target species. The following is a five-year summary of the priority incidents involving pesticide use affecting California wildlife:

Year	Fish	Bird	Wild Animals	Domesticated Animals/Bees
2007	57-CC-07 500 Fish	35-SBD-07 11 Geese	3-STA-07 1 Coyote 1 Raccoon	3-STA-07 10 Cows
2006		3-TUL06 50 Birds 5 Birds-Threatened		18-KER-06 Bees (Unknown Total)
2005	30-SCR-05 1000 + Fish			10-MER-05 5 Dogs
2004	35-FRE-04 Fish (Unknown Total) 46-PLA-04 500 Fish			14-TUL-04 Bees (Unknown Total) 18-SD-04 16 Miniature Horses
2003	26-RIV-03 600-700 Fish 39-KIN-03 400-450 Fish			

C) Important Non-Core Program Components

1) U.S. Mexico Border Project

DPR works with several state and federal agencies, along with authorities from Mexico, to foster effective enforcement of pesticide laws in the border area, a zone extending 100 miles north and south of the U.S./Mexico border. The program includes:

California – Baja California: Pesticide Illness Surveillance and Exposure Prevention Project

The Office of Binational Border Health, California Department of Public Health and the Instituto de Salud Publica del Estado de Baja California (ISESALUD) are project sponsors of the California-Baja California Integrated Pesticide Illness Surveillance and Exposure Prevention. With funding from the Western States Project, the goals of the surveillance project are to

- Improve reporting of pesticide illnesses in the border region,
- Improve communication and sharing information between California and Baja California,
- Manage exposure cases and investigations,

- Increase awareness and reporting of pesticide illnesses by Health Care Professionals (HCPs) and farm workers.

These goals are to be reached by developing agreements for cross-border cooperation on pesticide illness surveillance, having a pilot bi-national illness surveillance system, providing training to HCPs in recognizing pesticide illness and reporting of illnesses, and providing outreach to the farm worker community.

DPR staff from the Enforcement and the Worker Health and Safety branches has provided technical consultation relative to pesticides and pesticide-related investigation training. Staff will also provide outreach to field workers on how to recognize pesticide illness symptoms, their rights and how to seek medical attention.

Pesticide Collection Event is a USEPA-sponsored event with cooperation from DPR and the Mexican government that took place the week of March 24, 2008 in Imperial County and Mexicali, Mexico. The event collected 38,000 pounds of pesticides that are no longer used by farmers in Imperial County and Mexicali. Collection and disposal of these unwanted pesticides will help to prevent environmental contamination.

The Pesticide Episode Response Plan began in 1995 after pesticide drift incidents in the Calexico/Mexicali area. It provides a framework for local, state, and federal agencies in both California and Mexico to communicate and coordinate responses to pesticide emergencies.

Joint Train-the-Trainer Workshops for Pesticide Safety Educators in Mexico, Arizona, California and Tribal Communities: In 2004, the Arizona Department of Agriculture's; Agricultural Consultation and Training Program and Environmental Services Division partnered with staff from Inter Tribal Council of Arizona, Inc., University of California, Davis, Department of Pesticide Regulation, Environmental Protection Agency, Region 9, and pesticide inspectors from The Cocopah Tribe and Fort Yuma Quechan Indian Tribe to develop cross-jurisdictional pesticide safety train-the-trainer workshops.

As a result of this collaboration, eight (four in English and four in Spanish) "Joint Arizona, California, and Tribal Pesticide Safety Train-the-trainer Workshops" have been presented in Yuma, Arizona and Salinas, California since 2004. The two-day workshops were presented to pesticide safety trainers representing farms, nurseries, farm worker outreach projects, health clinics, tribal pesticide programs, insurance companies, and regulatory agencies. Through these sessions, over 200 people have become qualified to train agricultural field workers and pesticide handlers in California and Arizona. Due to the success of the Joint Train-the-trainer Workshops, the team would like to expand upon the current program to serve the informational and resource needs of pesticide safety trainers in the Arizona/Sonora and California/Baja border regions and are therefore seeking funding to offer six additional workshops (two in English and four in Spanish) in Yuma, Arizona, San Diego, California, and Mexico in 2007-2009.

The Residue Tracking Program: California and Baja California promotes efforts to reduce illegal pesticide residues on produce. The primary goals of the program are to establish a database and improve tracking procedures on shipments of produce from Mexico found to contain illegal residues. Department staff work with representatives of the Secretaria de Agricultura, Ganaderia, Desarrollo Rural, Pesca y Alimentacion when commodities for sale in California are found contaminated with illegal pesticide residues. DPR staff provide training to border region agricultural officials and the grower community on strategies that reduce drift and pesticide contamination of produce.

U.S./Mexico Pesticide Information Exchange Program: The main goal of this program is to exchange information at the state and federal level between the governments of the United States, Mexico, and the Border States. Information includes the regulation of pesticides; exchange personal and professional contact information; facilitate the discussion and resolution of pesticide issues along the border; and provide training and instruction on specific areas of pesticide regulation.

2) State and County Regulator Training

Senior Branch staff conducts the Liaison Internal Forum for Enforcement Branch Liaisons. USEPA Region 9 also provides training for DPR staff:

- Pesticide Inspector Residential training
- Pesticide Regulatory Education Program
- Inspector Workshops
- Criminal Investigations training

County Training

Senior Branch staff arranges and conducts training for CAC staff when complex new regulatory changes dictate and in the following areas:

- Structural pest control enforcement training
- Restricted materials training based on recently revised Restricted Materials Manual of the Compendium
- Inspection procedures training
- Enforcement Response regulations training
- Hearing and advocacy training

D) Program Limitations

Each of the data systems discussed in this report is an independent data system. It is difficult to link data from one source to another. These systems are outdated and lack sophisticated validation to assure data quality and integrity. In addition, other DPR programs collect data on priority investigations, illnesses, ground and air monitoring studies, and endangered species. Further, DPR does not have the ability to receive CAC workload, inspections, and enforcement action data electronically from the counties.

DPR and CAC workload and standard enforcement and compliance reports are based on the fiscal year. (Exceptions to this are the annual pesticide use, residue, and pesticide illness surveillance reports.) This annual Enforcement Report is based on the calendar year. Comparisons of data in this report with standard DPR workload and enforcement and compliance reports and data posted to the DPR website will be difficult if not impossible to reconcile.

As a result of compiling reports on a fiscal year basis, some data have not been received. Therefore, much of the data presented in this report is preliminary. DPR will have to address more timely reporting, collection and processing of data in the coming years.

Relative to the Pesticide Use Reporting system, the specific geographic location data are limited by the type of agriculture that is being reported. For example, the geographic location for right-of-way sites is reported at the county level while crops or other production agricultural sites are reported at the section level. A section is generally one square mile in area. In many cases, a section is too large for truly

accurate assessments of environmental impacts. For example, it is not possible to determine the amount of pesticide used within a certain number of feet of an application due to the lack of site-specific information in the section. Further, soil types may vary significantly within the square mile and thus the potential of pesticides to runoff or leach to groundwater varies accordingly. However, because the exact locations of applications are not known, scientists must design regulatory restrictions on pesticides to be the most protective within the entire square mile.

In the next two to five years, the Enforcement and Worker Health and Safety branches will develop an application to bridge existing databases (inspection, pesticide illness surveillance database, enforcement action database, and residue databases) that currently exist independently. These databases are used to evaluate county performance and compliance trends, residue and exposure to pesticides, implementation of the state Worker Safety Regulations and provide input on changes to the federal Worker Protection Standard.

To address these data management issues, DPR is undertaking an internal review and analysis of these systems, interrelationships, and functionality to develop a conceptual design. This will set the foundation to build a fully integrated pesticide regulatory data management system in the future that can improve the overall assessment of DPR programs and their effectiveness in protecting human health, food safety, and the environment. This effort is anticipated to take three to five years before we begin the actual system development.

DPR has not integrated and analyzed data from these various sources to fully assess the impacts of its programs to improve environmental and human health. In 2007, the Enforcement Branch redirected resources and upgraded positions to begin the process of bringing these systems together to develop an integrated approach to analyzing compliance. DPR is concentrating its efforts in 2008 on developing sound scientific and statistical procedures and methods to begin the process of fully assessing its programs and their overall impacts to improving human health, food safety, and the environment.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

DPR and the CACs have undertaken a joint project to assess a number of issues that have been identified over the last two years related to processes and data collection. The work group held its first meeting in April 2008 and is focusing its efforts on three areas:

- All planning, reporting, and evaluation activities and deliverables are currently conducted between the County and DPR on a fiscal year basis within a compressed four-month period. This does not allow for thorough and timely input and dialog between the County and DPR and the deliverables are delayed.
- Discrepancies in reporting various data became evident during a project requested by some CACs to summarize received and approved/denied decision reports (required by the Enforcement Response Regulations (ERR) when a prescribed enforcement action is not taken). DPR and the CACs are evaluating potential sources of these discrepancies.
- The current method of categorizing workload (PRAMR) does not accurately reflect changes in workload resulting from the implementation of the ERR. For example, counties currently report the number of enforcement actions closed during a given month. However, the workload and hours associated with follow up inspections, case file preparation, decision report and Notice of Proposed Action (NOPA) report writing cannot be directly associated with these specific activities. In

addition, the number of hearings requested are not tracked or reported, nor are the hours associated with these activities.

DPR anticipates an interim report with initial recommendations will be available by the end of 2008 for review by all parties. A final report and recommendations will require approvals of the Director and the CACASA Board of Directors and is projected for presentation at the CACASA Spring 2009 conference.

As noted earlier, new senior level Enforcement Branch staff is in the process of gaining more in-depth knowledge and expertise about state-county regulatory mandates, workload, and data systems. We expect that in the future, we will be able to more fully analyze and evaluate the impacts our regulatory programs have on industry compliance and if they actually improve environmental and human health protections. DPR will be able to answer questions such as:

- Relative to pesticide laws and regulations, i.e., are overall compliance rates improving?
- Relative to specific programs, i.e., have the new respiratory protection regulations reduced the number of pesticide-related illnesses for agricultural workers?
- Have fines increased as a result of the enforcement response regulations and the increased fine level authority?
- Have the number of repeat violators increased/decreased as a result of the enforcement response regulations?
- Is our air cleaner due to lower VOC emissions resulting from mandates to utilize low emission fumigation methods and/or change agricultural practices?
- Are there geographic differences in compliance in general and related to specific programs?

In conclusion, DPR has matured in its data gathering capability. In the coming years we strive to better interpret our data and use it to help illustrate the DPR story.

LIST OF ACRONYMS

Acronym	Full Name
AB	Assembly Bill
CAC	County Agricultural Commissioner
CACASA	County Agricultural Commissioners and Sealers Association
CDFA	California Department of Food and Agriculture
DFG	California Department of Fish and Game
DPH	California Department of Public Health
DPR	California Department of Pesticide Regulation
EPA	Environmental Protection Agency
EBL	Enforcement Branch Liaison
EPIC	Environmental Indicators for California
ERR	Enforcement Response Regulations
ETEC	enterotoxigenic E. coli
FAC	Food and Agricultural Code
HCP	Health Care Professionals
ISESALUD	Instituto de Salud Publica del Estado de Baja California
MDP	Microbiological Data Program (USDA)
MOU	Memorandum of Understanding
PDP	Pesticide Data Program
PISP	Pesticide Illness Surveillance Program
PRAMR	Pesticide Regulatory Activities Monthly Report
PUR	Pesticide Use Report
SB	Senate Bill
SPCB	Structural Pest Control Board
STEC	shiga toxin producing E. coli
USEPA	United States Environmental Protection Agency
USDA	United States Department of Agriculture
VOC	Volatile Organic Compound

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INTEGRATED WASTE MANAGEMENT BOARD

I. EXECUTIVE SUMMARY

The Integrated Waste Management Board (IWMB) has a dual mission: protecting public health and safety and the environment through regulation of solid waste and solid waste facilities, and reducing solid waste disposal through diversion (recycling, composting and waste prevention). A wide variety of programs is needed to achieve these missions from: assistance and training for local partners and businesses; to analysis, policy and regulation development; to evaluating compliance with requirements and taking enforcement action, if needed. Enforcement activities include:

- oversight of permitted solid waste handling and disposal facilities;
- evaluation of Local Enforcement Agency (LEA) performance in assuring permitted solid waste facilities meet standards;
- enforcement of standards at tire facilities, and tire hauler and tire flow manifest requirements;
- enforcement when cities and counties have not implemented diversion programs to achieve 50 percent waste diversion; and
- enforcement when product minimum recycled content requirements are not met by businesses.

A) Major Program Highlights

Adoption of Strategic Directives

In February 2007, the IWMB adopted Strategic Directives that establish program direction for staff. The Strategic Directives cover all aspects of waste management and aim at protecting and preserving the public health and safety, the State's resources, and environment. Several Strategic Directives (specifically numbers 4 and 8) place a significant emphasis on compliance and enforcement. All the IWMB's programs use a compliance first approach by providing assistance and training to help the regulated community comply with the law. When compliance is not achieved, emphasis switches to enforcement.

The IWMB Strategic Directives provide methodologies for measuring success of the implementation of the Integrated Waste Management Act. To implement Strategic Directives related to solid waste and tire facilities, the IWMB and stakeholders developed a Compliance Targeting Strategy to ensure compliance with applicable State standards and permit conditions at active solid waste facilities and tire facilities. This strategy provides direction on how to best focus resources where there is a need to provide assistance and oversight to LEAs carrying out their duties and to effectively monitor the compliance of solid waste and tire facilities and operations to ensure they are operating effectively. Effective compliance monitoring will allow IWMB to target LEAs and facilities that are experiencing compliance problems earlier than past practices allowed.

Reorganization for More Effective Compliance and Enforcement

In mid-2007 the IWMB implemented a major reorganization that consolidated a variety of compliance and enforcement activities from four former divisions within the new Waste Compliance and Mitigation Program's Compliance Evaluation and Enforcement Division (CEED). The reorganization consolidated compliance elements required by laws governing solid waste and tire facility operations, waste tire haulers, local government and state agency diversion from waste disposal, and minimum recycled content requirements for plastic and paper products. The IWMB is currently reviewing existing compliance and enforcement practices to improve their effectiveness and to determine if they need to be

modified to meet the IWMB's Strategic Directives and the Compliance Targeting Strategy. Challenges related to the reorganization include almost all the supervisors and managers are in new positions and there has been almost 50% staff turnover. Hiring and training staff have been very high priorities.

Tire Enforcement

An example of the IWMB's focus on compliance can be drawn from tire haulers. The IWMB has utilized a series of industry trainings followed by warning letters and, if necessary, enforcement actions to bring haulers into compliance. However, the IWMB recognized that enough time has been allowed for compliance using those tactics and has implemented a Zero Tolerance Compliance Strategy that will result in immediate enforcement action and increasing the use of penalties to ensure a level playing field and prompt, continuous compliance.

Solid Waste Facility and Local Enforcement Agency (LEA) Enforcement

One measure of the level of compliance with the state minimum standards for waste management facilities is the number of facilities on the [Inventory of Solid Waste Facilities Which Violate State Minimum Standards](http://www.ciwmb.ca.gov/Swis/Inventory/Default.aspx) (Inventory) located at: <http://www.ciwmb.ca.gov/Swis/Inventory/Default.aspx>. This list is composed of facilities that have a repeated number of violations and require close oversight by LEAs to bring them into compliance. During 2007 the number of facilities on the Inventory dropped from seventeen to two.

The third review cycle of the performance of the 54 evaluated LEAs was completed by the IWMB. The results of the review show an increase in the number of LEAs that are now fully meeting their obligations. However, a larger number of LEAs were required to develop work plans to improve identified problem areas. The results of this review are being used to target LEA training and IWMB consultation and assistance. Operator training has also been shaped by the results of this review.

The Compliance Targeting Strategy addresses LEA performance issues by early problem identification and targeted technical assistance and training. The new system will identify problems more quickly than past practices so that assistance can be provided before a significant problem occurs. Where assistance does not result in compliance, the strategy lays out a process for early LEA evaluation with outcomes ranging from placing the LEA on probation to IWMB taking over all LEA duties. The strategy will take several years to fully implement.

Local Government Diversion Enforcement

The 2006 statewide diversion rate increased to 54 percent. This exceeds the 50 percent diversion requirement. Information needed to calculate the diversion rate is only available after the calendar year is over, so the 2006 rate is the latest available rate. Local governments, businesses and citizens continue to increase the amount of waste diverted from disposal through waste prevention, recycling and composting activities. In 2008 the IWMB will review individual local government progress in implementing diversion programs to achieve or maintain 50 percent diversion.

Rigid Plastic Packaging Container (RPPC) Minimum Recycled Content Enforcement

Staff analyzed the 100 businesses whose rigid plastic packaging containers were reviewed to determine whether they met container recycled content requirements in calendar year 2005. Staff also worked with stakeholders on identifying revisions to regulations to clarify and improve the RPPC regulatory framework. These changes are designed to simplify the regulations and improve industry compliance.

Illegal Dumping Enforcement

Illegal dumping poses risks to the general public and the environment, degrades the quality of life in affected communities, and is costly to cleanup. Illegal dumping is an intentional act that is typically done for economic gain. Cleanup of illegal dump sites costs local governments and CalTrans a minimum of \$89 million per year. The IWMB identified an opportunity to coordinate efforts on a major illegal dumping cleanup in 2007. The Imperial County LEA working with IWMB has identified by satellite imaging, and verified by aerial flyover and field checks, over 47 illegal disposal sites in the New River area of the county. The disposed waste included tires and other types of waste. The LEA has characterized the nature, extent and ownership of the sites and has issued 30 notices and orders. IWMB staff is working with the LEA to propose a master agreement for multiple sites under the Farm and Ranch grant program and a potential grant application from the Imperial Irrigation District under the Solid Waste Cleanup Program. The LEA is expected to submit a Master Farm and Ranch grant application in April 2008 for consideration by the Board.

B) What the Reported Data Tells Us

Tire Enforcement

The Strategic Directives set a goal of 100% compliance for waste tire facilities. Over 95% of the waste tire haulers are in compliance and 90% of waste tire facilities are in compliance. Additionally the IWMB is pursuing more vigorous enforcement to achieve compliance with waste tire hauler and manifest requirements. This focused and concerted enforcement approach has been described to the regulated community as a "zero tolerance policy". Six Hundred Sixty (660) tire enforcement actions were taken by local tire enforcement grantees and IWMB in 2007. The 2007 enforcement actions included 14 tire hauler penalty cases and two tire facility penalty cases.

In 2008 the IWMB will be reviewing the tire enforcement program to identify opportunities for additional progress in increasing compliance and enforcement. The number of penalty cases is expected to increase dramatically with the zero tolerance compliance strategy (described in Major Program Highlights above). One of the areas that will be piloted is a streamlined process to allow more timely enforcement within existing staff levels.

Solid Waste Facility and LEA Enforcement

Solid waste facility integrated waste management enforcement programs are primarily carried out through 55 local enforcement agencies (LEA). LEAs inspect solid waste facilities to determine compliance with state minimum standards and permit conditions. There is a 3% significant violation noncompliance rate at solid waste facilities, solid waste operations and closed disposal sites. The Strategic Directives require 100% compliance at active solid waste facilities and IWMB is looking at methods outlined in the Compliance Targeting Strategy to achieve this goal. The IWMB is developing early triggers for areas of noncompliance, and providing assistance and training in those areas to achieve compliance. The Compliance Targeting Strategy lays out processes for moving promptly to enforcement if compliance is not achieved.

An important component of achieving 100% compliance is working through LEAs and verifying that LEAs are performing their duties in accordance with the law. In 2007 IWMB completed the third evaluation cycle for the years 2003-2006. Twenty-six (26) of 54 evaluated LEAs were found to be fulfilling their responsibilities during the third LEA evaluation cycle. The remaining 28 LEAs were found to not be fulfilling their responsibilities during this time frame. The IWMB is assisting LEAs to come into compliance and taking appropriate steps if the LEA does not come into compliance. The IWMB will start by focusing on those LEAs with long-term performance issues.

Local Government Diversion Enforcement

Every two years the IWMB reviews each local government's progress in implementing its planned waste diversion programs to achieve 50% diversion; this is called a biennial review. The results of the 2005-2006 biennial reviews will be considered by the IWMB starting in fall 2008. Nine local governments (2%) were on compliance orders in 2007. An additional four local governments (1%) met the terms of their compliance orders and were removed from compliance status during 2007.

The 54 percent 2006 statewide diversion rate exceeds the 50 percent diversion requirement. There was a two percent increase in diversion between 2005 and 2006. The total waste generated by Californian's increased by four million tons between 2005 and 2006. Of the four million ton increase in waste generated 200,000 tons was disposed and 3.8 million tons were diverted.

The State sponsored legislation during the 2007-2008 legislative sessions to address making the measurement system more accurate, making measurement more timely, and streamlining jurisdiction requirements. The improvements in accuracy and timeliness will make it easier to determine compliance in the future.

Rigid Plastic Packaging Container Minimum Recycled Content Enforcement

During 2007 the IWMB reviewed information submitted regarding compliance with the requirements for recycled content in rigid plastic packaging containers. The IWMB analysis of 100 company's compliance with the requirements for the 2005 certification cycle continued into 2008 and the Board expects to impose penalties in 2008 for companies that did not comply with the requirements.

C) How The Program Will Use The Information

The data will be used, as described under each program component above, to analyze progress in achieving compliance and effectiveness of enforcement actions, and determine the need for future changes to the program components.

II. IWMB ENFORCEMENT PROGRAM

A) IWMB Enforcement Program Overview

Mission Statement

The IWMB's Waste Compliance and Mitigation (WCM) Program ensures that:

- All solid waste and tire facilities, and all tire haulers are permitted or registered as required.
- All waste management activities within the IWMB's purview as defined by law are assessed, enforced and penalized as appropriate.
- The State's diversion goals are met and State agency and local programs achieve State mandated goals.
- Mandated producer responsibility programs including rigid plastic packaging containers (RPPCs), plastic trash bags and newsprint are in compliance.
- All hazards created by the illegal or inappropriate disposal of solid waste are mitigated.
- Staff and local partners have the training, technical support, and financial assistance necessary.
- All local enforcement agencies are properly certified, designated and evaluated as appropriate.

The Compliance Evaluation and Enforcement Division (CEED) within the WCM Program is responsible for all compliance and enforcement activities related to solid waste and tire facilities, and illegal tire disposal; compliance activities related to the IWMB's minimum content programs (newsprint, trash bags and rigid plastic containers); and compliance activities related to local government and state agency waste management planning and diversion requirements.

Organizational Structure

See Figure 1 on the next page for an IWMB organization chart.

Scope of IWMB Enforcement Program

The IWMB has a variety of enforcement program components established under many laws. One of the key differences among the laws is the differing levels of enforcement authority, which requires different enforcement activities.

The IWMB has direct authority for enforcing requirements for:

- Tire haulers and handlers, processors and disposal facilities; recycled content in rigid plastic packaging containers (RPPC), plastic trash bags and newsprint.

The IWMB has oversight authority over:

- Solid waste facility Local Enforcement Agencies. The IWMB has the ability to take direct enforcement authority if solid waste facility LEAs do not choose to, or are not adequately performing, enforcement duties at solid waste handling, processing and disposal facilities.
- Local jurisdictions (cities, counties and IWMB - approved regional agencies) to ensure that they are implementing waste diversion activities to achieve 50% diversion from disposal. The IWMB places noncompliant jurisdictions on compliance orders and may impose penalties for failure to meet compliance order requirements.

Federal laws only govern solid waste facility enforcement; a more detailed description is included in the solid waste facility enforcement section.

All of the IWMB's programs use a compliance first approach by providing assistance and training to help the regulated community comply with the law. When compliance is not achieved, emphasis switches to enforcement.

The 2007 report focuses on describing the tire, municipal solid waste, local government diversion and RPPC compliance and enforcement programs in this report. Information on newsprint, plastic trash bag, plastic carryout bag and state agency programs will be added in future annual reports.

There are 55 staff, plus a number of students in the Compliance Evaluation and Enforcement Division that implement the IWMB enforcement programs. Most staff assigned to this work are scientists. They perform inspections, fieldwork, and prepare analyses. Several attorneys and a legal support staff in the IWMB Legal Office work on IWMB enforcement programs.

The IWMB relies heavily on working with local governments to enforce tire and solid waste facilities requirements. There are 55 solid waste local enforcement agencies (LEA) that implement MSW requirements at permitted solid waste facilities. Thirty-eight local tire grantees perform tire related inspections and assist with tire enforcement throughout the state.

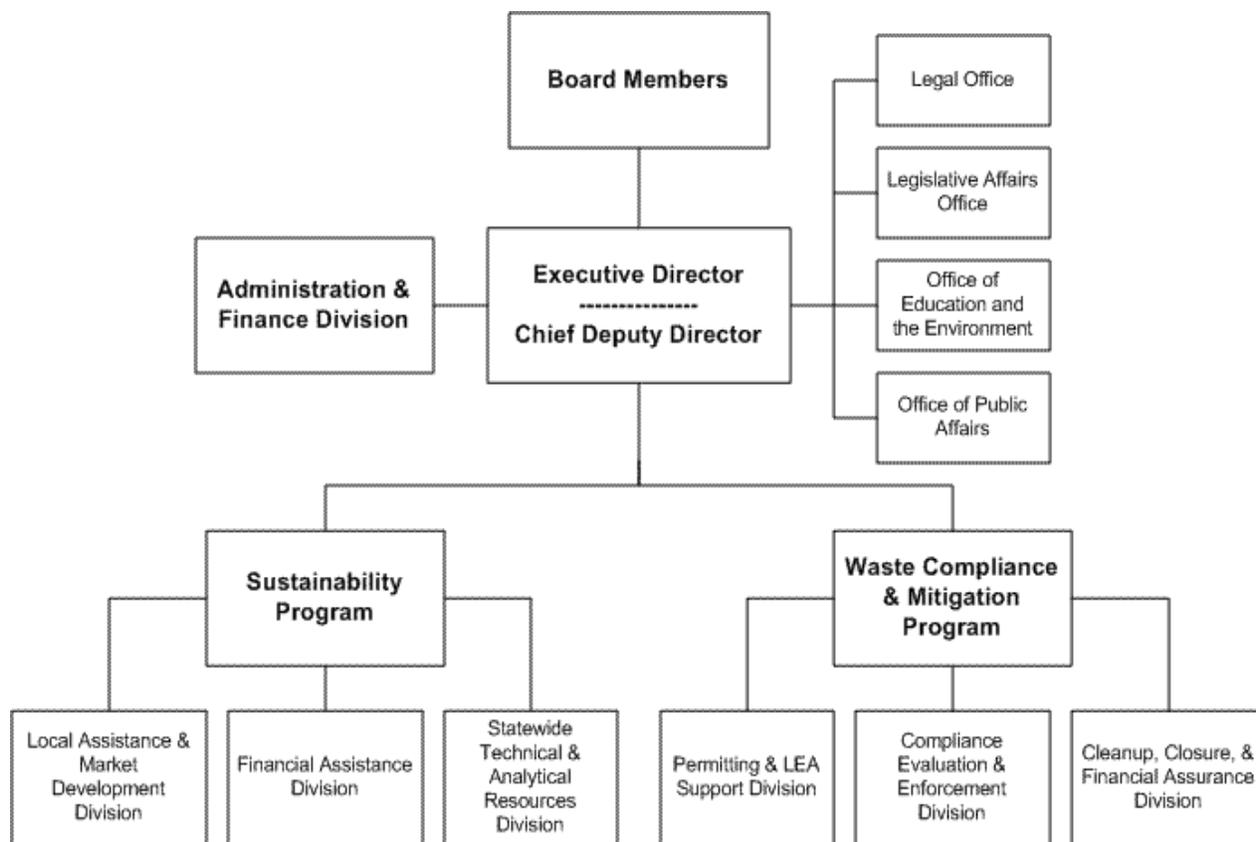


Figure 1. IWMB Organization Chart Tire Enforcement Program Component

1) Tire Enforcement Program Component

Tire Enforcement Component Description

In 1990, the California Legislature enacted comprehensive requirements for the storage and disposal of waste tires. The IWMB was charged with responsibility for permitting of tire facilities, and tire pile stabilization and remediation where public health and safety and the environment may be at risk. The tire law gives the IWMB direct authority to enforce tire requirements.

The law required the IWMB to develop a "California Uniform Waste and Used Tire Manifest" (Public Resources Code Section (PRC) 42961.5). IWMB uses the information generated by the waste tire manifest system to ensure that all waste tires generated and transported within California have been accounted for and delivered to permitted end use facilities. IWMB identifies discrepancies and gaps in the manifest system data and actively enforces the requirements. The maximum civil penalties for violations of the waste tire hauling and manifesting requirements are \$25,000 per violation per day, and the maximum administrative penalties are \$5,000 per violation per day (PRC Section 42962).

Operating a waste tire storage facility without a waste tire facility permit is a misdemeanor punishable with a fine up to \$10,000 per day of the violation and/or up to one-year imprisonment in county jail (PRC Section 42824 and 42834).

In 2007, the regulated community included approximately:

- 20,000 tire related businesses
- 1100 waste tire haulers

- 31 minor waste tire facilities, and
- 6 major waste tire facilities.

Expanding Tire Enforcement Through Local Governments

Great strides have been made in expanding the statewide tire enforcement infrastructure through IWMB grants to local government tire enforcement entities. The IWMB may “consider designating a city or county, or city and county as the enforcement authority of regulations relating to the storage of waste and used tires” PRC section 42889(b)(4). This section also states that if the IWMB designates a local entity for this purpose, it must provide sufficient, stable, and noncompetitive funding to that entity, based on available resources. The IWMB and local tire enforcement grantees are working cooperatively with local district attorneys to hold those individuals who break California’s waste tire laws accountable for their action either through fines or with criminal penalties.

Using Technology for Enhanced Tire Enforcement

Enforcement is keeping up with technology in California as the IWMB is beginning to use sophisticated techniques such as satellite technology and motion-activated cameras to identify waste tire piles and to catch people illegally disposing of waste tires. The California Highway Patrol (CHP) is working in partnership with the IWMB to stop illegal hauling and stockpiling of waste and used tires. A portion of these combined efforts will focus on the border region between California and Mexico.

The IWMB has contracted with the ARB to authorize the ARB to purchase, construct, maintain and deploy surveillance equipment to be used for surveillance at various sites throughout the state. Through the contract, the Air Resources Board (ARB) has purchased and will set up high-tech, motion-activated video surveillance equipment to monitor activities that violate waste tire laws at locations specified by the IWMB.

The current IWMB contract with San Francisco State University to evaluate use of satellite technology in identifying waste tire piles continued in 2007. Results of this satellite study are expected in 2008.

Tire Enforcement Goals

The Strategic Directives set a goal of 100% compliance for waste tire facilities. The purpose of the waste tire enforcement grant program is to enhance the statewide waste tire enforcement infrastructure in California by increasing local waste tire enforcement activities. Additionally, the IWMB is pursuing more vigorous enforcement to achieve compliance with waste tire manifest requirements, based upon a zero tolerance compliance strategy for manifesting and hauler violations in early 2007 as described in the Major Program Highlights.

Tire Enforcement Component Metrics

Tire Enforcement Component Data Characteristics

Tire enforcement data is collected from tire haulers submitting manifests that document tire flow in California and monthly inspections of each permitted tire facility.

Tire Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Tire Enforcement Component Outputs

Thirty-nine local tire enforcement grantees covered 79 percent of the state’s tire sites and related businesses in 2007. The IWMB covered the remainder of the tire sites and related businesses.

The number of inspections at tire facilities has increased dramatically over the last 5 years. As the number of tire grantees has increased, more tire facilities are inspected more frequently. Figure 2 shows tire facility inspections.

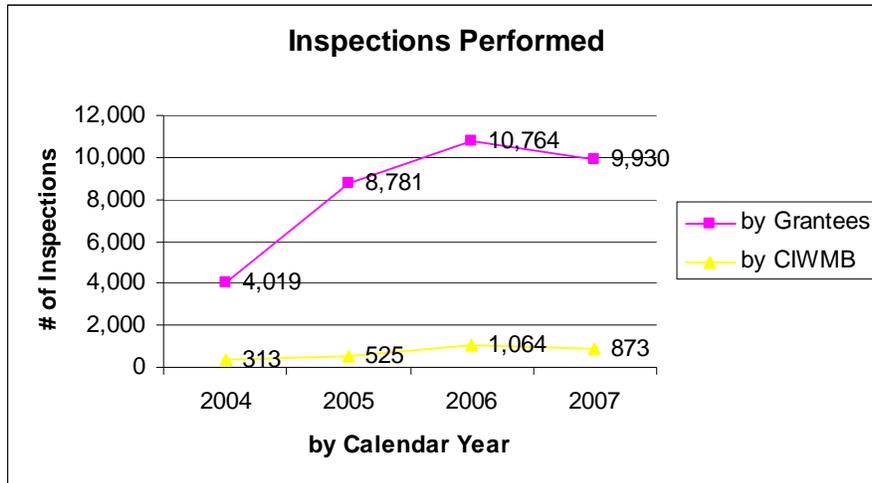


Figure 2. Tire Facility Inspections, 2004 to 2007

If an inspector observes that a tire business is out of compliance with a law or regulation, the inspector documents a Notice of Violation and identifies a date by which the business must become compliant. If the business does not become compliant after two re-inspections, enforcement action is initiated against the tire business. The IWMB defines these enforcement actions as significant violations.

Six Hundred Sixty (660) tire enforcement actions were taken by local tire enforcement grantees and IWMB in 2007. The types of tire enforcement actions for tire businesses (which include tire sales and waste tire facilities) and tire haulers and the tire hauler manifest system include:

- Cleanup and Abatement Orders
- Notices of Violation
- Rejected Applications
- Administrative Actions
- Administrative Complaints
- Cease and Desist Orders
- Letters of Violation

Figure 3 shows notices of violations and significant enforcement actions for only permitted waste tire facilities. A permitted facility is a tire business that has a permit for 500 or more tires on site. The IWMB takes enforcement action when significant violations occur.

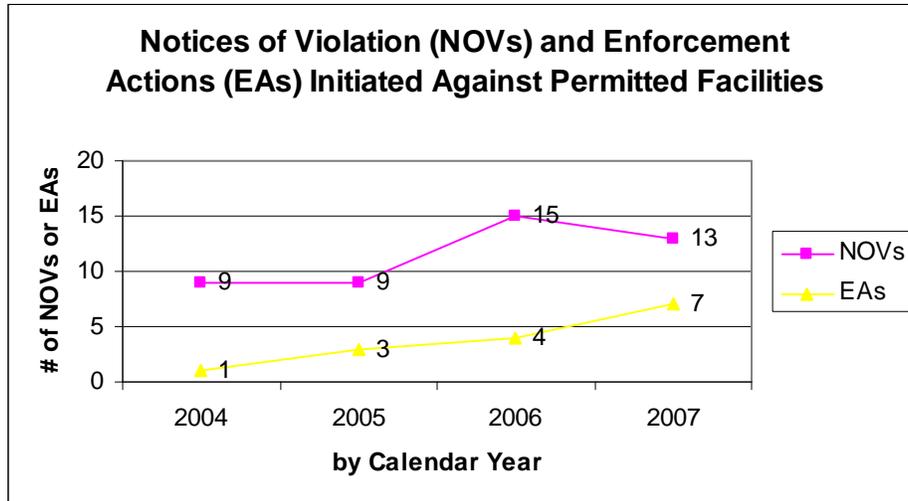


Figure 3. Tire Facility Notices of Violation and Enforcement Actions, 2004-2007

When tire haulers fail to correct violations, IWMB has issued administrative complaints to tire haulers for violations of requirements related to hauler registration and correctly manifesting tire movement throughout California. Tire hauler registration and manifest administrative complaints from 2004 to 2007 are shown in Figure 4. During this time period the tire manifest system was simplified and streamlined and the IWMB provided extensive training and warning letters for violations of tire hauler registration and tire manifest requirements. The number of administrative complaints is expected to increase in 2008 as a result of the zero tolerance policy.

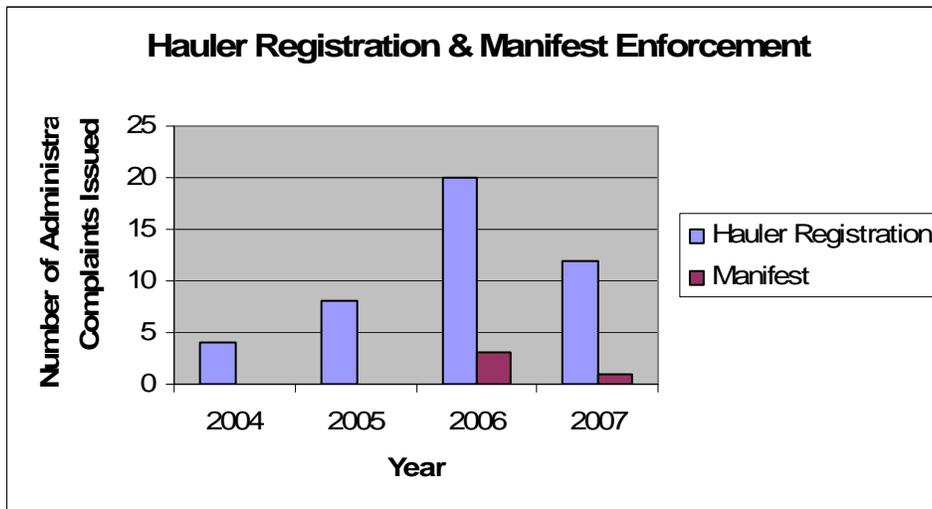


Figure 4. Tire Hauler Registration and Manifest Enforcement Actions, 2004-2007

Tire Enforcement Component Outcomes

The Strategic Directives set a goal of 100% compliance related to compliance with applicable State standards and permit conditions at active waste tire facilities.

The CIWMB takes enforcement action when significant violations occur. The 2007 significant violation non-compliance rate for waste tire facilities is 10%.

Tire Enforcement Limitations

The IWMB will be reviewing the tire enforcement program to identify opportunities for additional progress in increasing compliance and enforcement. The zero tolerance strategy is expected to increase enforcement workload significantly. One of the areas that is being explored is how enforcement processes could be streamlined to address the increased workload expected due to the zero tolerance strategy in order to allow more enforcement within existing staff levels.

2) Solid Waste Facility and Local Enforcement Agency (LEA) Enforcement Component

Solid Waste Facility and LEA Enforcement Component Description

Jurisdiction over the disposal of solid waste in California extends over several state and local agencies. Four state agencies play a regulatory role with respect to solid waste: 1) the California Integrated Waste Management Board (IWMB); 2) the State Water Resources Control Board (State Water Board); 3) the Air Resources Board (ARB); and 4) the Department of Toxic Substances Control (DTSC).

All of these agencies fall under the umbrella of the California Environmental Protection Agency (Cal/EPA). These agencies share concurrent authority over some aspects of solid waste disposal. The statutes and regulations for solid waste management and disposal set forth a clear division of authority between these state agencies. The California Legislature has designated the IWMB as the lead agency for the federal Resource Conservation and Recovery Act (RCRA) Subtitle D, MSWLF (municipal solid waste landfill) permit program (PRC Section 40508).

The State Water Board's authority is established for protection of water quality, the ARB's for protection of air quality, and the DTSC's for protection from hazardous waste. The IWMB's authority is established for protection of public health and safety and the environment, which encompasses the responsibility for all other aspects of solid waste disposal not within the purview of the other entities. Under its broad authority for protection of public health and safety, the IWMB may take appropriate enforcement action, and implement the solid waste regulations of other state agencies if those agencies fail to act.

In 1993, the US Environmental Protection Agency (US EPA) approved the State of California's municipal solid waste landfill (MSWLF) permit program pursuant to Subtitle D of the federal Resource Conservation and Recovery Act (RCRA).

As the lead state solid waste agency, the IWMB is responsible for coordination and communication on all aspects of solid waste with US EPA, including the RCRA Subtitle D Program. The primary point of contact for IWMB and California implementing agencies is the Waste Compliance and Mitigation Program Director.

IWMB regularly meets with state implementing agencies to discuss and resolve issues on all aspects of solid waste management, including the RCRA Subtitle D Program.

IWMB also coordinates notification to US EPA of any potential significant statutory or regulatory changes to the State's Subtitle D RCRA Program. Summary of non-significant changes to the State's Subtitle D Program are provided to US EPA on an annual basis. IWMB notifies US EPA of significant changes as soon as practicable, or within a timeframe agreed to by the IWMB and EPA. IWMB also collaborates with US EPA on appropriate initiatives and partnerships involving the RCRA Subtitle D Program.

Solid waste facility integrated waste management enforcement programs are primarily carried out through LEAs and the IWMB acting as the enforcement agency (EA). LEAs are designated by the governing body of a county or city and upon certification by the IWMB are empowered to implement delegated IWMB programs and locally designated activities. LEA's are responsible for assuring facilities operate in accordance with the IWMB's State Minimum Standards and approved permit conditions.

Fifty-five LEAs cover all of the state except for the six jurisdictions where the IWMB acts as the enforcement agency. The IWMB is the EA for the: City of Berkeley; City of Stockton; City of Paso Robles; County of Santa Cruz; County of San Luis Obispo; and County of Stanislaus.

The IWMB's regulation of solid waste facilities includes:

- Certifying LEA programs.
- Reviewing permitting and closure/postclosure documents.
- Providing inspection and oversight of local programs to ensure that State programs are effectively implemented.
- Enforcing State standards and permit conditions in addition to or in lieu of the LEA.
- Administering a remediation program for orphaned, illegal, and abandoned sites.
- Taking appropriate enforcement action if the LEA fails to take appropriate enforcement.

There were 533 permitted, active solid waste management facilities in 2007. These include:

- 275 waste transfer and processing facilities
- 106 composting facilities
- 149 disposal facilities
- Three (3) waste-to-energy (transformation) facilities.

The following are additional details in specific program areas:

Active and Closed Solid Waste Facilities: Each jurisdiction's LEA or EA routinely inspects active and closed landfills, transfer stations, compost operations and facilities, construction and demolition operations and facilities, and other operations and facilities to ensure compliance with applicable State minimum standards and permit conditions. For operations or facilities that are not in compliance with State minimum standards or the conditions contained within their permit, the LEA or EA have the authority to issue Corrective Action Orders, Cease and Desist Orders, and civil penalties. The LEA and EA also have the authority to issue stipulated agreements and emergency waivers to facilities or operations located in an area with a declared emergency. Additionally, facilities found in chronic violation of State minimum standards are published on the IWMB's [Inventory of Solid Waste Facilities That Violate State Minimum Standards](#). Facilities on the Inventory receive enhanced compliance assistance.

Closed, Illegal, and Abandoned Disposal Sites: The IWMB's Closed, Illegal, and Abandoned (CIA) Disposal Sites program assists local enforcement agencies in investigating and enforcing State minimum standards at CIA sites in California. Enforcement is an essential tool in the investigation and analysis of CIA disposal sites. Enforcement can include acquiring site access, abatement, notifications, stipulated agreements, and compliance with Title 14, California Code of Regulations (14 CCR).

The IWMB May Act as Enforcement Agency: When an LEA is not designated and certified, the local government requests the IWMB be the EA, or if the IWMB finds that a LEA is not fulfilling its

duties and responsibilities, then the IWMB becomes the EA. The IWMB, as EA, inspects facilities for compliance with State minimum standards and/or solid waste facility permit (SWFP) terms and conditions. In the event that a facility owner/operator does not comply with the State minimum standards and/or terms and conditions of its SWFP, the IWMB will pursue appropriate enforcement action. For a variety of reasons, the IWMB acts as the enforcement agency in six jurisdictions: the City of Berkeley, the City of Stockton, the City of Paso Robles, the County of Santa Cruz, the County of San Luis Obispo, and the County of Stanislaus.

LEA Performance Evaluation: The IWMB LEA program includes the formation (designation), support and evaluation (audit) of the LEAs to improve their success in consistent enforcement of statutes, regulations, and solid waste facilities' permit terms and conditions statewide. To assess the LEAs' performance, the program includes a step-by-step approach and results range from finding that LEAs are fulfilling responsibilities to, corrective action, to withdrawal of the LEA's designation approval and de-certification.

Solid Waste Facility and LEA Enforcement Goals

The Strategic Directives set a goal of 100% compliance for waste management facilities related to compliance with applicable State standards and permit conditions at active solid waste facilities.

The IWMB adopted a Targeted Compliance Strategy (Strategy) in December 2007 to ensure compliance. The IWMB developed the Strategy to ensure compliance with applicable State standards and permit conditions at active solid waste facilities and tire facilities. The Strategy was developed with significant input from stakeholders at numerous meetings held throughout California. This Strategy provides direction on how to best focus resources where there is a need to provide assistance and oversight to Local Enforcement Agencies (LEA) carrying out their duties and to effectively monitor the compliance of solid waste and tire facilities and operations to ensure they are operating effectively. It lays out a blueprint for changes in the IWMB's approach to compliance and enforcement under the reorganization.

The Strategy is built upon the following principles:

1. Compliance first approach
2. Cooperation first approach
3. Consistent enforcement
4. Measuring compliance
5. Need for continuing education and training
6. Need for increased multi-media coordination when appropriate
7. Each LEA has an Enforcement Program Plan (EPP) that defines appropriate enforcement step for no-complying facilities.

This Compliance Targeting Strategy focuses on situations where:

- The facility is chronically violating state minimum standards the LEA has not put the facility under a Notice and Order or a Compliance Plan,
- State minimum standards are not being adequately assessed to protect the public health and safety, and the environment,
- Multiple enforcement orders or extensions of orders have been issued to a facility and little or no progress is being made.
- Inspections are not being conducted pursuant to the statutes and regulations.

Strategies include:

1. Reducing the number of facilities listed on the IWMB's [Inventory of Solid Waste Facilities Which Violate State Minimum Standards](http://www.ciwmb.ca.gov/Swis/Inventory/Default.aspx) (<http://www.ciwmb.ca.gov/Swis/Inventory/Default.aspx>).
2. Provide inspection and enforcement training, assistance and oversight to LEAs to ensure that State programs are effectively implemented
3. Increase Number of Random and Independent Inspections (Audits)
4. LEA Performance Evaluation Process to enhance Solid Waste Enforcement

3) Solid Waste Facility and LEA Enforcement Component Metrics

Solid Waste Facility and LEA Enforcement Component Data Characteristics

Solid waste facility enforcement related data is collected from LEA and EA monthly/quarterly inspections at each permitted solid waste facility as required by law, LEA progress updates on implementing Enforcement Program Plans (EPP) and LEA evaluation workplans, and LEA and EA progress updates on enforcement actions.

Solid Waste Facility and LEA Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Solid Waste Facility and LEA Enforcement Component Outputs

Between 2000 and 2007 the number of enforcement orders issued has decreased over half, while LEA inspections have increased two (2) percent, EA inspections have increased 37 percent and IWMB pre-permit and 18-month oversight inspections have increased eight (8) percent.

In 2000:

- 10,765 inspections were conducted by LEAs
- 308 inspections by the IWMB's EA program
- 130 IWMB inspections (pre-permit and 18 month)
- 81 enforcement orders were issued
 - 54 Notice and Orders were issued by LEAs
 - 21 *Notices of Intent to List on the Inventory* were issued to facilities by the IWMB, and six (6) facilities did not comply and were listed on the *Inventory*.

In 2007:

- 11,564 inspections were conducted by LEAs
- 465 inspections by the IWMB's EA program
- 188 IWMB inspections (pre-permit, 18 month, and closure)
- 55 enforcement orders were issued
 - 33 Notice and Orders were issued by LEAs/EAs
 - 14 *Notices of Intent to List on the Inventory* were issued to facilities by the IWMB, and seven (8) facilities did not comply and were listed on the *Inventory*

Solid Waste Facility and LEA Enforcement Component Outcomes

Significant violation non-compliance rates at solid waste management facilities have decreased since implementation of the IWMB/LEA Partnership, while numbers of inspections have increased. Three percent of the 533 solid waste facilities, solid waste operations, and disposal sites had significant

violations and were under enforcement action in 2007. Solid waste facility significant violations and enforcement actions from 2000 – 2007 are shown in Figure 5.

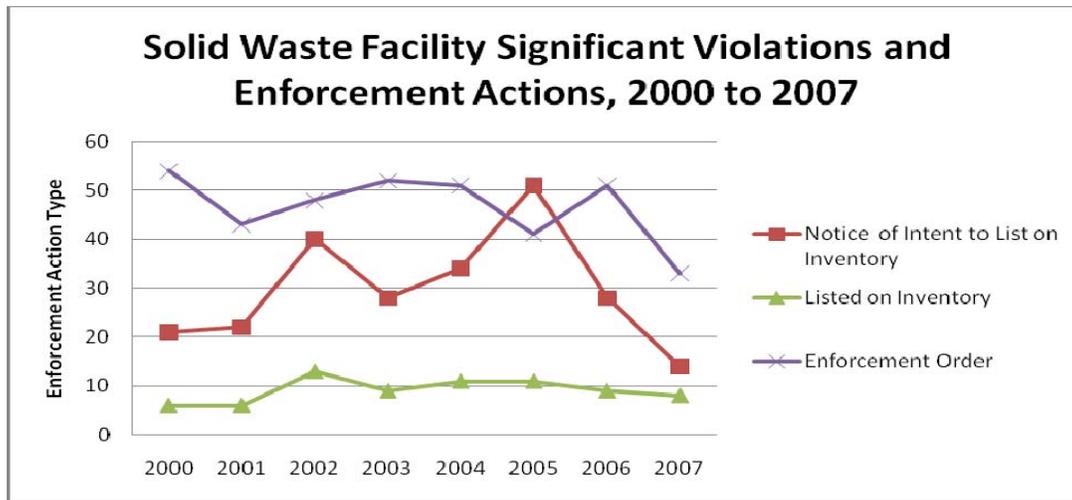


Figure 5. Solid Waste Facility Significant Violations and Enforcement Actions, 2000 to 2007

Year	Enforcement Action Type		
	Notice of Intent to List on Inventory	Listed on Inventory	Enforcement Order
2000	21	6	54
2001	22	6	43
2002	40	13	48
2003	28	9	52
2004	34	11	51
2005	51	11	41
2006	28	9	51
2007	14	8	33

Table 2. Solid Waste Facility Significant Violations and Enforcement Actions, 2000 to 2007

Every three years the IWMB evaluates solid waste management LEA performance. The evaluation focuses on whether LEAs met their EPP and performed as required by statute and regulation. In 2007 IWMB completed the third evaluation cycle for the years 2003-2006. Twenty-six of 54 evaluated LEAs were found to be fulfilling their responsibilities during the third LEA evaluation cycle. The remaining 28 LEAs were found to not to be fulfilling their responsibilities during this time frame:

- Seven (7) were found to be fulfilling most responsibilities.
- Twenty-one (21) required an LEA evaluation work plan (corrective action plan) to address evaluation findings.
 - Of these 21, the most significant problem areas involved not completing all required inspections, permit reviews, and related activities.

When the second LEA Evaluation Cycle (2000-2003) is compared to the third LEA Evaluation Cycle there are mixed results:

- Six (6) more LEAs were found to have “fulfilled duties” in the third cycle than the second cycle
- Seven (7) more LEAs slipped in performance in the third cycle and required evaluation work plans to correct jurisdictional compliance issues.
- Seven (7) LEAs with evaluation work plans in the second cycle also required the evaluation work plans in the third cycle.

CEED is focusing efforts on improving the performance of the LEAs that are preparing evaluation work plans. The Compliance Targeting Strategy addresses LEA performance issues by early problem identification and technical assistance and training. Where assistance does not result in compliance, it lays out a process for early LEA evaluation with outcomes ranging from placing the LEA on probation to IWMB taking over all LEA duties. The complete results of the 2003-2006 LEA Evaluation Cycle are on the web in the [May 15, 2007 IWMB Board Agenda Item, Number 9](http://www.ciwmb.ca.gov/Agendas/Agenda.asp?RecID=1270&Year=2007&Comm=BRD&Month=5) (<http://www.ciwmb.ca.gov/Agendas/Agenda.asp?RecID=1270&Year=2007&Comm=BRD&Month=5>).

Solid Waste Facility and LEA Enforcement Limitations

An important component of achieving 100% compliance is working through LEAs and verifying that LEAs are performing their duties in accordance with the law. In 2007 IWMB completed the third evaluation cycle for the years 2003-2006. Twenty-eight of the 54 evaluated LEAs were found to not be fulfilling their responsibilities during this timeframe. The IWMB is assisting LEAs to come into compliance and taking appropriate steps if the LEA does not come into compliance. The IWMB is starting by focusing on those LEAs with long-term performance issues. In 2008, the IWMB will be reviewing the municipal solid waste enforcement program to identify opportunities for additional progress in increasing compliance and enforcement. One of the areas that will be explored is development of database triggers to identify issues early, and then providing assistance to help LEAs and operators achieve compliance with the ultimate goal of achieving 100% compliance. During 2008, the IWMB will focus on updating information in its databases and developing database reports to track triggers such as: chronic violations not handled at the local level; chronic permit violations other than state minimum standards covered by the Inventory process; lack of LEA inspections; and multiple enforcement orders that do not show progress. This information will also be used by IWMB staff to develop LEA and operator training programs and focus its technical assistance efforts for LEAs.

The State will seek changes in legislation to address streamlined enforcement processes and enhance enforcement mechanisms during the 2008 legislative session.

Local Government Diversion Enforcement Component

Local Government Diversion Enforcement Component Description

The California Integrated Waste Management Act (AB 939, Sher, Chapter 1095, Statutes of 1989 as amended [IWMA]) made all California cities, counties, and IWMB-approved regional solid waste management agencies responsible for enacting plans and implementing programs to divert 50 percent of waste disposed starting in 2000. Waste diversion includes waste reduction, reuse, recycling, and composting of all waste generated (created) by residents, businesses, industries and institutions.

The IWMB:

- provides assistance to local governments as they develop and implement plans to meet the mandates of the IWMA;

- approves local government waste management plans;
- determines whether local governments have complied with the diversion requirements; and
- assesses penalties of up to \$10,000 per day on local governments that fail to comply with the requirements.

Once a local government adopts a waste diversion plan, it must implement the plan to the best of its ability (PRC Section 41850). To help the IWMB determine the status of diversion program implementation, the local government submits an annual report to IWMB. Every two years the IWMB conducts an independent biennial review of the local government's progress toward implementing its diversion plan to achieve the 50 percent diversion requirement.

In 2007, there were 540 cities and counties in California that were required to plan and implement diversion programs to achieve 50% diversion. The IWMA allows cities and counties to join regional agencies, to realize reduced costs for programs and reporting, as well as to improve accuracy of measurements by reducing complex boundaries. Because many cities and counties have joined regional agencies, in 2007 there were 424 local governments subject to these requirements.

To ensure consistency in its evaluation and treatment of jurisdictions during the biennial review and any subsequent hearings, the IWMB adopted enforcement policies in February 1995, and updated the policies in August 2001. The policy is incorporated into statute by reference (PRC Section 41850).

If the implementation of a local government's waste diversion plan does not result in 50 percent solid waste diversion, the IWMB may do one of the following:

1. Determine that the local government's program implementation efforts are sufficient to warrant "good-faith effort" status; or
2. Place the local government under a compliance order (PRC Section 41825).

Since there are many diversion rate accuracy issues (see Local Government Diversion Program Limitations section below for a description of accuracy issues), the emphasis of the IWMB evaluation is on whether or not the local government has made a "good faith effort" to implement all reasonable and feasible diversion programs. When a local government fails to make a "good-faith effort" to implement diversion programs to achieve 50 percent waste diversion, the IWMB holds a hearing to determine whether to place the local government on compliance. The compliance order issued by the IWMB after such a hearing is accompanied by a plan for corrective action outlining specific steps and a schedule of deadlines which will bring the local government into compliance with the IWMA. The focus of the corrective action plan is also on implementation of all reasonable and feasible diversion programs, though some corrective action plans have included work on improving diversion rate measurement accuracy.

When a local government fails to implement the conditions of its compliance order, the IWMB conducts a penalty hearing to determine whether to exercise its authority under PRC Section 41850 to fine local governments up to \$10,000 per day.

Local Government Diversion Enforcement Goals

The Strategic Directives focus on minimizing waste and maximizing diversion of materials from landfills through the waste management hierarchy of waste prevention, recycling and composting, and safe disposal of waste. The Strategic Directives also focus on compliance with the requirements that

local governments plan and implement diversion programs to achieve 50% diversion. To accomplish these strategic directives the IWMB will:

- Provide vigorous oversight of local governments to ensure that 50% diversion is maintained among those that have already attained it.
- Increase the number of local governments that reach the 50% level.
- Continually increase the statewide annual diversion rate beyond 50%.
- Ensure implementation of diversion programs in 100% of jurisdictions in California.
- Ensure all jurisdictions are in compliance with the diversion requirements

Local Government Diversion Enforcement Component Metrics

Local Government Diversion Enforcement Component Data Characteristics

Local government diversion related data is collected from a number of sources. Waste disposed by all residents and businesses is collected at permitted solid waste facilities and reported to the IWMB in the Disposal Reporting System. This data is included in the IWMB's calculation of default diversion rates. Local governments correct diversion rate data, if they have corrections and adjustments and report the diversion rate and diversion program implementation data in their annual progress report to the IWMB.

Local Government Diversion Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Local Government Diversion Enforcement Component Outputs

No biennial reviews were conducted in 2007. The biennial reviews take place when the diversion rate information is available for the second year of the two-year cycle (for example 2005-2006). For 2006 the calculation factors required to estimate the diversion rate were not available until December 2007. 2006 local government annual reports with their 2006 diversion rates were due in March 2008 and the results of the 2005-2006 biennial reviews will be considered by the IWMB in fall 2008.

Nine local governments were on compliance orders in 2007. These include: Cerritos, Daly City, Downey, Hawaiian Gardens, Hermosa Beach, Inglewood, Los Angeles Regional Agency, Paramount and Ridgecrest.

Four jurisdictions met the terms of their compliance orders in 2007 and were removed from compliance status by the IWMB. These jurisdictions include: Arvin, Baldwin Park, Compton and Gardena.

Local governments on compliance orders that ended prior to December 2007 successfully implemented the orders, so no penalty hearings were held in 2007. The IWMB directed staff to schedule a penalty hearing for the City of Cerritos in early 2008. In the past, the IWMB has imposed penalties against jurisdictions that did not make a good faith effort, and sent a message to local governments that implementing their diversion programs is important.

Local Government Diversion Enforcement Component Outcomes

The IMWB has focused on assisting local governments to achieve the compliance with diversion requirements. This has resulted in increased compliance over time. In the 1999-2000 Biennial Review Cycle 65% of local governments were found to be in compliance and approved by the IWMB. In the 2003-2004 Biennial Review Cycle 71% of local governments were found to be in compliance and

approved by the IWMB. If the local governments on time extensions are not included in calculating compliance rates, the 1999-2000 Biennial Review Cycle has a 99% compliance rate and the 2003-2004 Biennial Review Cycle has a 97% compliance rate. See Figures 6 and 7 for results of the 1999-2000 and 2003-2004 Biennial Review Cycles.

Many of the issues with estimating diversion rates at the local government level are reduced when looking at statewide data. Since the IWMA went into effect in 1990, diversion rates have increased due to increased diversion, even as generation has increased. Statewide diversion rates have increased from 10% in 1989 to 54% in 2006 (the latest year for which data is available). See Figure 8 and Table 3 for the statewide per capita disposal and diversion over time.

The IWMB’s Strategic Directives include continually increasing the statewide annual diversion rate beyond 50 percent. The 2006 statewide diversion rate was 54 percent, while the 2005 statewide diversion rate was 52 percent. The total waste generated by Californians increased by four million tons between 2005 and 2006. Of the four million ton increase in waste generated, 200,000 tons was disposed and 3.8 million tons were diverted.

Environmental/Health Outcomes

The CalEPA Environmental Protection Indicators for California (EPIC), that were originally published in 2004, look at statewide diversion data on a per capita basis rather than for the state as a whole as described above in the outcomes section. Many of the issues with estimating diversion rates at the local government level are reduced when looking at statewide data. Since the IWMA went into effect in 1990, per capita disposal rates have decreased due to increased diversion, even as generation has increased. See Figure 9 and Table 4 for the statewide per capita disposal and diversion over time

The State sponsored legislation during the 2007 legislative session to address making the measurement system more accurate, making measurement more timely, streamlining jurisdiction requirements and focusing on diversion program implementation.

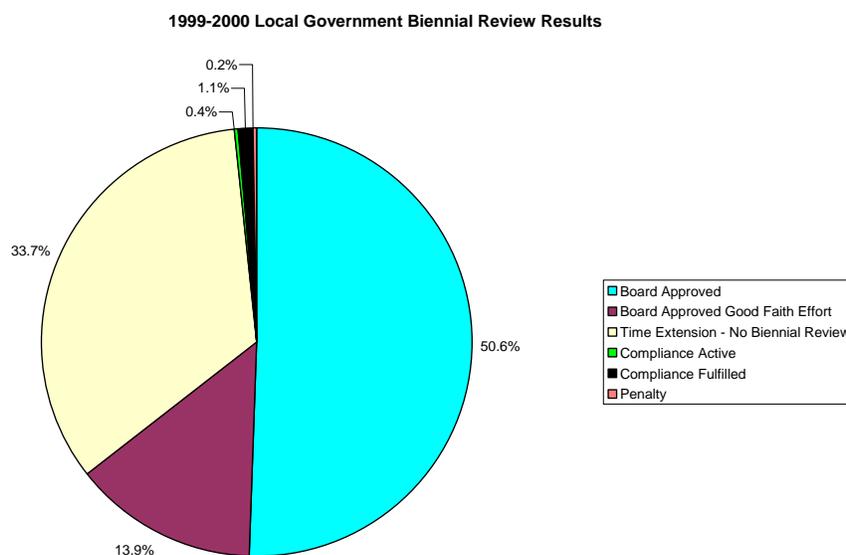


Figure 6. Results of the 1999-2000 Biennial Review Cycle

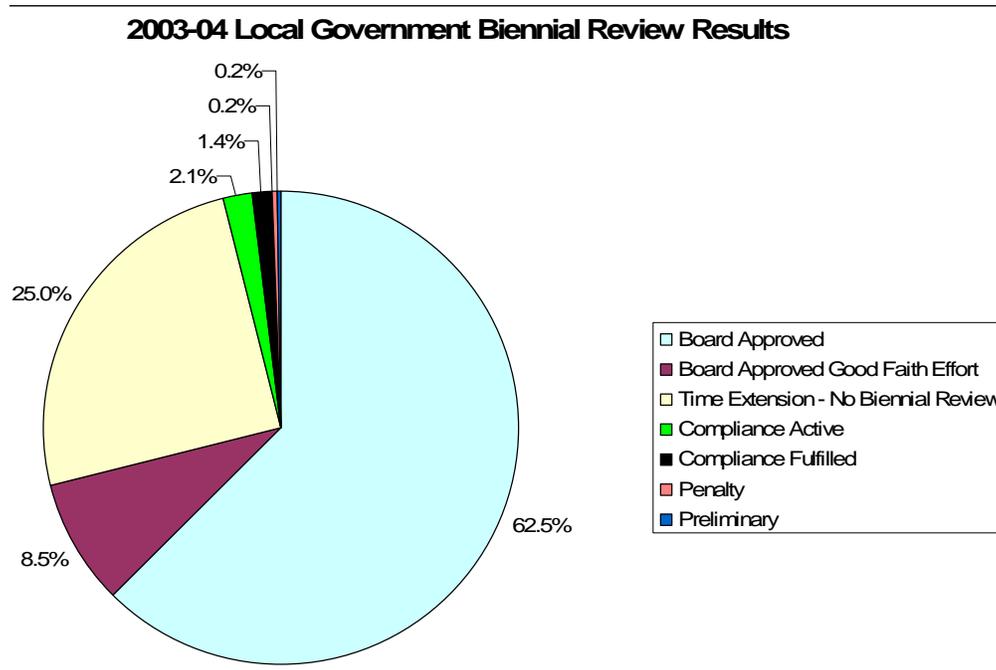


Figure 7. Results of the 2003-04 Biennial Review Cycle

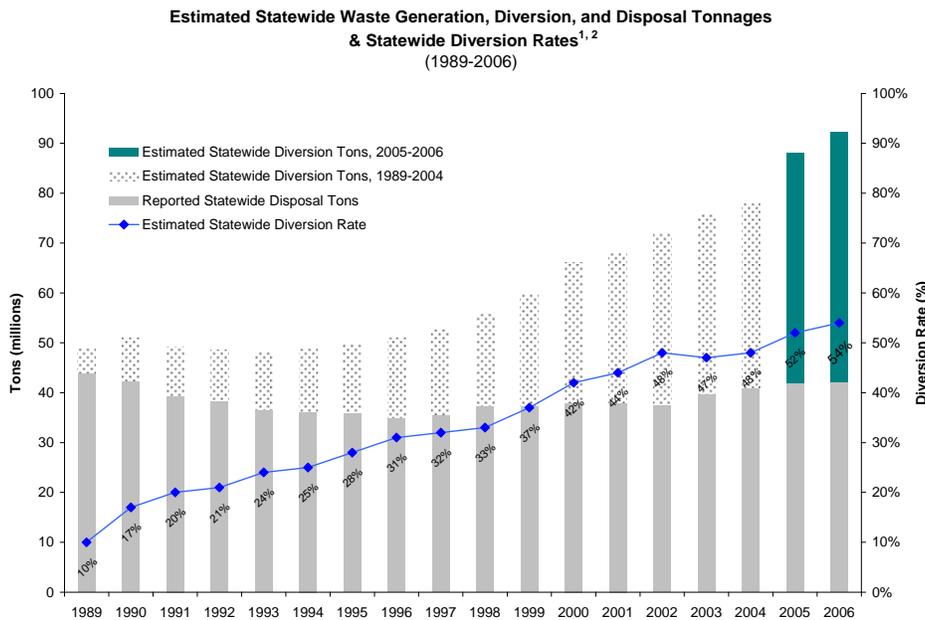


Figure 8. Statewide Disposal, Diversion and Generation Rates

¹ The Board's [Taxable Sales Deflator Index](http://www.ciwmb.ca.gov/LGCentral/DivMeasure/AdjustMethod/TSDI.htm) (TSDI) (<http://www.ciwmb.ca.gov/LGCentral/DivMeasure/AdjustMethod/TSDI.htm>) was used to remove inflation from taxable sales amounts used in statewide diversion rate estimates for 2005 and 2006. A preliminary TSDI is used for the statewide diversion rate. Prior to 2005, Consumer Price Index (CPI) was used. In 2004, the State Board of Equalization stated that its taxable sales deflator is a more accurate measure of inflation in taxable sale amounts. Because of this change in methodology, the statewide generation and diversion rate estimates for 2005 and 2006 are not directly comparable with prior year estimates.

² Per Chapter 993, Statutes of 2002 (Chavez, AB 2308), 2001-2005 disposal figures do not include waste sent to three Integrated Waste Management Board-permitted inert mine-reclamation facilities in Southern California. Starting in 2006, disposal does not include waste sent to two of these facilities. This represents approximately 2 percentage points of diversion.

Year	Est. Statewide Diversion (Millions of Tons) ^{1,2}	Reported Statewide Disposal (Millions of Tons)	Est. Statewide Diversion Rate	Est. Statewide Generation (Millions of Tons)
1989	5	44	10%	49
1990	8.5	42.4	17%	50.9
1991	9.7	39.5	20%	49.2
1992	10.2	38.4	21%	48.6
1993	11.4	36.7	24%	48.1
1994	12.4	36.3	25%	48.7
1995	13.7	36	28%	49.7
1996	15.9	35	31%	50.9
1997	17	35.5	32%	52.5
1998	18.5	37.4	33%	55.9
1999	22.2	37.5	37%	59.7
2000	28	38.1	42%	66.1
2001	29.9	38.1	44%	68
2002	34.2	37.6	48%	71.8
2003	35.8	39.9	47%	75.7
2004	37	40.9	48%	77.9
2005	46.2	42	52%	88.2
2006	50.1	42.2	54%	92.2

Table 3. Statewide Disposal, Diversion and Generation Rates

¹ The Board's [Taxable Sales Deflator Index](http://www.ciwmb.ca.gov/LGCentral/DivMeasure/AdjustMethod/TSDI.htm) (TSDI) (<http://www.ciwmb.ca.gov/LGCentral/DivMeasure/AdjustMethod/TSDI.htm>) was used to remove inflation from taxable sales amounts used in statewide diversion rate estimates for 2005 and 2006. A preliminary TSDI is used for the statewide diversion rate. Prior to 2005, Consumer Price Index (CPI) was used. In 2004, the State Board of Equalization stated that its taxable sales deflator is a more accurate measure of inflation in taxable sale amounts. Because of this change in methodology, the statewide generation and diversion rate estimates for 2005 and 2006 are not directly comparable with prior year estimates.

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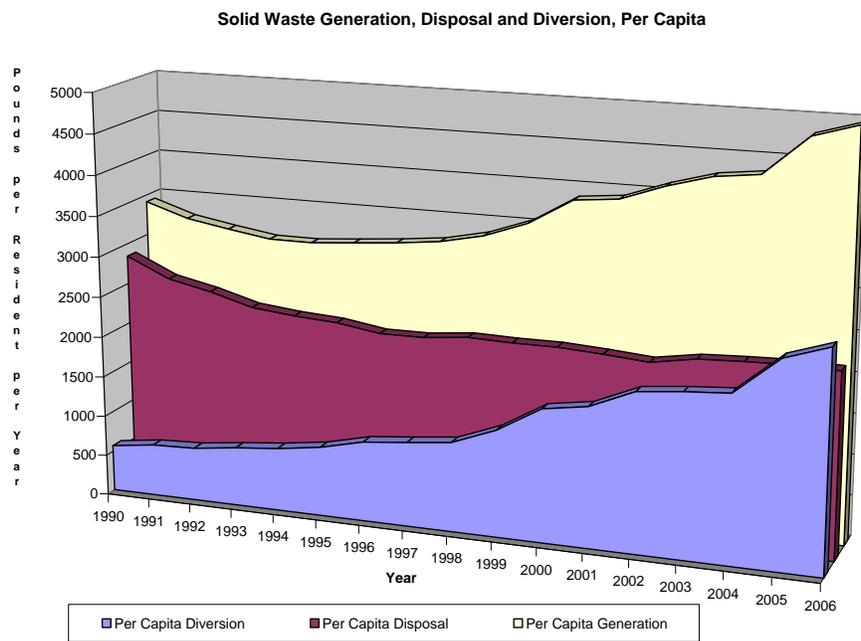


Figure 9. Statewide Per Capita Waste Disposal, Diversion and Generation

Pounds per Capita			
Year	Per Capita Diversion	Per Capita Disposal	Per Capita Generation
1990	570.5	2845.6	3416.1
1991	640.3	2607.3	3247.5
1992	662.3	2493.5	3155.8
1993	728.4	2345.0	3073.5
1994	782.3	2290.2	3072.6
1995	858.9	2257.1	3116.0
1996	987.6	2173.9	3161.5
1997	1042.9	2177.9	3220.9
1998	1104.5	2232.8	3337.3
1999	1313.6	2218.9	3532.5
2000	1632.7	2221.6	3854.2
2001	1718.4	2189.7	3908.0
2002	1954.3	2148.6	4102.9
2003	2011.2	2241.6	4252.8
2004	2049.9	2265.9	4315.8
2005	2510.9	2282.6	4793.5
2006	2693.5	2268.8	4957.0

Table 4. Statewide Per Capita Waste Disposal, Diversion and Generation

Local Government Diversion Enforcement Limitations

In the 1980s, California faced landfill siting problems and a projected shortage of landfill capacity that could impact the health and safety of Californians. In 1989, the IWMA established a framework to limit reliance on landfills and waste-to-energy projects and give greater weight to recycling, waste prevention, reduction, and composting methods. The IWMA placed the burden for achieving these goals on cities and counties and required that they establish base-level waste generation (generation tons = diversion tons + disposal tons) by measuring both diversion and disposal.

In the early 1990s, cities and counties found it was difficult and costly to obtain accurate information on quantities and types of wastes recycled and composted, and to calculate waste prevention. Waste diversion activities are decentralized and dispersed, as compared to disposal that occurs at a limited number of facilities. Recyclers and businesses were reluctant to provide information that could give competitors an advantage and the law does not require they provide such information. Local governments bear the responsibility of meeting IWMA requirements, but do not necessarily control all the waste generators within their borders.

In 1992, state law was changed to redesign the measurement system from a diversion measurement system to a disposal-based measurement system. Diversion rate estimates are made by comparing disposal tonnage to estimated waste generation (estimated diversion tons = adjusted base-level generation – disposal tons). The adjustment is needed so jurisdictions are not penalized for changes in population and economics outside their control that can significantly impact the amount of waste generated.

Base-level waste generation is the starting point of the disposal-based diversion rate measurement system. Many inaccurate assumptions were made about California's waste stream when local

governments established their original base levels. Since the adjustment method is applied to base level data, inaccuracies in base-level data can have a significant impact on the estimated diversion rate.

In the mid-1990's, the IWMB was required to develop the disposal-reporting system to track where waste comes from because the measurement system is heavily dependent on accurate disposal data. The disposal reporting system regulations were recently revised to improve accuracy. However, there are still accuracy issues in areas with complex boundaries and high amounts of self-haul waste and for small jurisdictions.

There are many accuracy issues related to diversion rates and these have made compliance determinations more difficult. Key issues for the IWMB and local governments have always been:

- recognition that potential errors in the diversion rate measurement system make the diversion rate an estimate, not an absolute value; and
- The appropriate balance between resources needed to improve accuracy and resources needed to establish and maintain the diversion programs and infrastructure.

The State sponsored legislation during the 2007 legislative session to improve the measurement system. Proposed changes in legislation will allow local governments and the IWMB to obtain more timely and accurate information on reductions in tons disposed, focus efforts on implementing diversion programs to reduce waste sent to disposal and make compliance determinations easier. The IWMB is working with the Legislature and stakeholders to get the legislation proposed in 2007 passed and signed into law.

4) Rigid Plastic Packaging Containers (RPPC) Minimum Recycled Content Enforcement Component

RPPC Minimum Recycled Content Enforcement Component Description

The RPPC law was enacted as part of an effort to increase the use of recycled plastic and reduce the amount of plastic waste disposed in California landfills. The law regulates companies that produce or generate products that are held in RPPCs that are sold or offered for sale in California. The law is enforced by the IWMB through a compliance certification process for regulated companies.

California's RPPC law supports new and expanded infrastructures for collecting and recycling plastic resins in California and around the world. The law diverts plastics from disposal in California landfills by supporting demand for postconsumer material, which in turn encourages recyclers to divert more material that would otherwise go to landfills. Continued implementation and effective enforcement of the law is essential to follow through on the IWMB's commitment to protect the environment and is critical to maintaining demand for postconsumer resins.

The law applies to manufacturers/producers/generators of products sold or offered for sale in regulated RPPCs as defined by law. When a company's name, or any of its brand names or subsidiaries or affiliates, appears on the container label of a product that is sold or offered for sale into the State of California, either directly or indirectly (for example, through distributors, franchises, internet sales, etc.), then that company is subject to the requirements of the California RPPC law.

Several types of containers are exempt from the RPPC requirements these include rigid plastic containers:

- used for shipping drugs, medical devices, cosmetics, food, medical food, or infant formula as defined by the Federal Food, Drug, and Cosmetic Act;

- used for shipping toxic or hazardous products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act; and
- used for shipping hazardous materials that are prohibited by federal law from being manufactured with "used material" (postconsumer resin) by federal packaging material specifications, or are subject to specified federal testing standards, or to which recommendations of the United Nations on the transport of dangerous goods are applicable.

California statute allows the IWMB to assess penalties of up to \$50,000 for any violation up to a maximum of \$100,000 annually. Violations include, but are not limited to, failure to submit all required forms, or submitting incomplete forms, or noncompliance with the RPPC law.

RPPC Minimum Recycled Content Enforcement Component Goals

The RPPC law supports California's recycling infrastructure and supports greater collection and reprocessing of plastic resins into containers produced. Compliance can be achieved in several ways:

- Some compliance options were designed to encourage source reduction (waste prevention), recycling, and reuse/refilling of RPPCs;
- The recycling compliance option promotes the use of more postconsumer resin in RPPCs, and reduces the amount of virgin resin used to manufacture RPPCs.

One hundred companies selected from a pool of companies that produce or generate products in RPPCs are required to certify they complied in a calendar year, and are subject to penalties if they fail to demonstrate compliance.

The RPPC program promotes extended producer responsibility by supporting infrastructure for collecting and recycling plastic resins and requiring recycled content in plastic packaging. The Strategic Directives set goals for additional producers to assume the responsibility for the safe stewardship of their materials in order to promote environmental sustainability.

RPPC Minimum Recycled Content Enforcement Component Metrics

RPPC Minimum Recycled Content Enforcement Component Data Characteristics

Companies selected to certify they complied in a particular calendar year are required to submit forms containing data required by statute and regulations.

RPPC Minimum Recycled Content Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

RPPC Minimum Recycled Content Enforcement Component Outputs

During 2007, IWMB staff reviewed compliance certification information submitted by 100 companies regarding compliance during 2005. The review of the information continued throughout 2007 and into 2008. The IWMB expects to impose penalties in 2008 for companies that did not comply with the requirements.

RPPC Minimum Recycled Content Enforcement Component Limitations

The CIWMB has conducted five compliance certification cycles for the following reporting periods: 1996; 1997-99 (combined into one certification); 2000; 2001 and 2005. Based on over 10 years experience in conducting compliance certifications and in taking enforcement actions, it became clear there were inconsistencies, inequities, complexities, and outdated provisions in the current regulations which are an impediment to the effective and efficient implementation of the law. Therefore, the IWMB decided to adopt revised regulations, and educate businesses about the requirements in the revised regulations, before undertaking another compliance certification cycle.

Stakeholders have raised many issues regarding the existing RPPC regulations. The IWMB directed staff to revise the RPPC regulations and implement an outreach and educational campaign before undertaking another compliance Cycle and assessing penalties. Regulations revisions are needed to make them more clear and specific; to reorganize the regulations to improve ease of understanding; to eliminate inequities in regard to what types of containers are regulated; to align the regulations with the intent of the law to support markets for PCM; and to align the regulations with the Board's strategic directive for extended producer responsibility.

Modifying the regulations to clarify that the owner of the brand name is the corporate entity responsible for generating products packaged in RPPCs for sale in California will have the effect of requiring manufacturers to take responsibility for the packaging it uses. This should have the effect of "greening" manufacturer's entire supply chain as they require their suppliers to provide them with compliant containers.

Modifying the definition of a rigid plastic packaging container to include containers that are almost identical to regulated containers, but that are not currently regulated by the existing regulations will level the playing field. This regulatory inconsistency creates an inequitable regulatory environment. For example, containers with metal handles are currently not regulated, even though the same container without a handle, or with a plastic handle, is regulated.

Stakeholders participated in an informal review and formulation of proposed regulations revisions during 2007. IWMB directed staff to prepare the required economic analysis of the cost of the regulations revisions to the state and businesses, and begin the formal regulations revision process. The IWMB will resume RPPC certifications after revised regulation are adopted.

5) Illegal Dumping Component

Illegal Dumping Component Description

Illegal dumping poses risks to the general public and the environment, degrades the quality of life in affected communities, and is costly to cleanup. Illegal dumping is an intentional act that is typically done for economic gain. In contrast, littering is not done for economic gain and may or may not be an intentional act. Currently, no state agency is tasked with the coordination of issues arising from illegal dumping. In general, local entities take the lead in enforcement and cleanup for such sites.

The IWMB initiated a coordinated effort to 1) assess the statewide extent of the illegal dumping problem; 2) and the amount of resources that local governments spend annually combating the problem; 3) and to assess local government's needs to combat the problem. An Illegal Dumping Enforcement Task Force (IDETF) was formed in early 2006 and activities continued into 2007. The twenty-two members included local, state, federal and private employees, who represented the interest and experiences of local illegal dumping task forces, city and county enforcement agencies, city and county

public works departments, state agencies, legal associations, county and city management associations, hazardous material management associations, park districts, private solid waste operators and associations, environmental non-profit associations, and private citizens.

In conjunction with the IDETF activities, California State Association of Counties (CSAC) and the League of California Cities provided staffing to develop and administer cost surveys. These surveys revealed an annual cost of over \$34 million to local government for abatement. In addition, the Department of Transportation's has an annual budget for litter and illegal dumping abatement and prevention of \$55 million, which means a combined minimum cost of \$89 million. IDETF representatives from the Federal Government, which owns over 50% of the land in California, feel that their illegal dumping abatement and enforcement costs match that of California local government. Equally impacted by illegal dumping but not included in the local government survey done by the task force include the State Parks system, local Parks and Recreation Districts, School Districts, Irrigation Districts, and Watershed Management Districts. In addition, the IDETF found that illegal dumping not only fiscally impacts government agencies, but also, the private property owner who is the victim of illegal dumping yet must pay to have the dumped materials removed and properly disposed. In lieu of spending additional time and money developing a comprehensive illegal dumping cost data base for California, the IDETF felt that the survey results were sufficient to fully indicate that this is a major fiscal problem for local governments and that it was critical to develop recommendations to address the problem and get started on the solutions.

Overall, the IDETF found that (1) there is a critical need for state coordination, leadership, and assistance to local illegal dumping enforcement, abatement and prevention programs; (2) that legislation may be required to provide local and state government with the needed legislative authority and equipment to administer effective illegal dumping programs; (3) additional funding sources are needed to support the increasing costs of illegal dumping; and (4) local agencies can and should take the lead in implementing existing authorities. In 2007, the IWMB established an internal team to address illegal dumping issues.

Members of IDEFT worked with staff on these issues. Representatives of the City of Los Angeles, City of Fresno, and Imperial County are meeting with the IWMB to develop Best Management Practices for Illegal Dumping Abatement and Enforcement (BMPs). Utilizing existing city and county procedure manuals, the BMPs will be incorporated into the Board's Web site. Included will be procedures involving prevention (i.e. mandatory collection of refuse, zoning codes, waste tire amnesty days), abatement (public versus private property, clean and lien authority, notices of violation), and enforcement (citizen complaints, hot spot identification, investigation and surveillance procedures, case preparation).

The IWMB is also working with local and state staffs who are involved in public awareness programs to identify what components should be included in an Illegal Dumping Outreach and Public Awareness Program.

Illegal Dumping Component Metrics

Illegal Dumping Component Data Characteristics

Since no state agency has authority for illegal dumping, a variety of data is collected by local and state agencies depending on their needs and available resources.

Illegal Dumping Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Illegal Dumping Component Outputs

The IWMB identified an opportunity to coordinate efforts on a major illegal dumping clean up in 2007. The Imperial County LEA working with IWMB has identified by satellite imaging, and verified by aerial flyover and field checks, over 47 illegal disposal sites in the New River area of the county. The disposed waste included tires and other types of waste. The LEA has characterized the nature, extent and ownership of the sites and has issued 30 notice and orders. IWMB staff is working with the LEA to propose a master agreement for multiple sites under the Farm and Ranch grant program and a potential grant application from the Imperial Irrigation District under the Solid Waste Cleanup Program.

Illegal Dumping Component Limitations

Until the following are addressed, illegal dumping will continue to be an issue throughout California: (1) there is a critical need for state coordination, leadership, and assistance to local illegal dumping enforcement, abatement and prevention programs; (2) legislation is required to provide local and state government with the needed legislative authority and equipment to administer effective illegal dumping programs as described above and (3) additional funding sources are needed to support the increasing costs of illegal dumping.

The Imperial County LEA is expected to submit a Master Farm and Ranch grant application in April 2008 for consideration by the Board as a regional pilot project in June 2008. The State will sponsor legislation to address authority and funding for illegal dumping prevention and cleanup during the 2008 legislative session.

III. FUTURE DIRECTIONS

The reorganization is a major step in the IWMB's implementation of Governor Schwarzenegger's Enforcement Initiative. As a result of the reorganization and consolidation of enforcement activities in CEED, the IWMB will continue to review existing compliance and enforcement practices improve their effectiveness and to determine if they need to be modified to meet the IWMB's Strategic Directives, the Five-Year Tire Plan and the Compliance Targeting Strategy.

Many existing supervisors, managers and staff are leaving for higher paying staff-level scientist positions elsewhere at CalEPA. IWMB expects to hire many new staff, supervisors and managers and extensive training will be needed so they can perform their new duties.

The IWMB's key enforcement objectives for 2008 include meeting strategic directives, promoting state sponsored legislation, streamlining processes as described under each component below, clarifying requirements through regulations revisions and evaluating the potential of new technology to improve enforcement in the future. These activities have been identified in this chapter and are summarized below.

Solid Waste Facility and LEA Enforcement Component

In the area of solid waste facility compliance and enforcement the IWMB will focus on implementing Strategic Directives and the Compliance Targeting Strategy.

Meet the Strategic Directives goals to:

- Assure that 100 percent of active landfills and other solid waste facilities meet state minimum standards as well as permit terms and conditions and that they comply with federal and state waste management laws;
- Reduce the number of solid waste facilities on the noncompliance (“Inventory”) list;
- Increase by 2% the number of independent and random CEED inspections (audits) and field investigations conducted at solid waste facilities.
- Focus on LEAs that have been on corrective work plans for two or more evaluation cycles. Provide targeted assistance, and where the assistance does not improve performance, initiate an early LEA evaluation. Outcomes range from placing the LEA on probation to the IWMB taking over all LEA duties.
- Focus additional inspections on high profile sites with potential or known compliance issues.
- Identify opportunities for additional progress in increasing compliance and enforcement.
 - Develop automated electronic inspection reports to obtain data more quickly and reduce potential data entry errors.
 - Update information in databases and develop database triggers to identify issues early. Database triggers could include: chronic violations not handled at the local level; chronic permit violations other than state minimum standards covered by the Inventory process; lack of LEA inspections; and multiple enforcement orders that do not show progress.
 - Identify types of assistance and training needed to improve compliance with input from the LEAs.
 - Provide assistance to help LEAs and operators achieve compliance with the ultimate goal of achieving 100% compliance.
- Promote State sponsored legislation to address:
 - more effective enforcement by LEAs and the CIWMB, including but not limited to, authority for criminal penalties, increased civil penalties and streamlining of appeal processes; and
 - authority to establish reimbursable positions when the IWMB assumes EA duties.

Tire Enforcement Component

The Tire Enforcement Program will focus on:

- Meeting the Strategic Directive goal:
 - Assure that 100 percent of tire facilities meet state minimum standards as well as permit terms and conditions and that they comply with federal and state waste management laws;
- Streamlining enforcement processes to deal with the dramatic increase in tire penalty cases expected to result from the zero tolerance policy. Streamlining processes will allow more enforcement within existing staff levels.
- Evaluating final results of the IWMB’s contract on use of satellite technology in identifying waste tire piles. Determine whether the approach is currently viable and if so, identify the next steps in using this technology.

Local Government Diversion Enforcement Component

In this area, the program will focus on efforts to:

- Meet the Strategic Directives goals and:
 - Ensure implementation of diversion programs by 100 percent of local governments; and
 - Ensure all local governments are in compliance with the diversion requirements.
 - Continually increase the statewide diversion rate beyond 50 percent.

- Conduct 2005-2006 Biennial Reviews of each local government's progress in implementing diversion programs to achieve diversion requirements.
 - Place local governments that are found not to be making a "good faith effort" to achieve diversion requirements on compliance orders that include a compliance plan with additional diversion programs and an implementation schedule
- Monitor local governments on compliance orders to determine whether they are meeting the schedule and terms of the compliance order. Determine whether each local government has met the terms of the compliance order. If not, conduct a hearing to consider penalties for failure to implement the compliance order.
- Promote State sponsored legislation to address:
 - More accurate, timely and streamlined local government diversion requirements that will make compliance determinations easier.

RPPC and Minimum Recycled Content Enforcement Component

In this program area, staff will focus on efforts to:

- Determine penalties for manufacturers found to be out of compliance with minimum recycled content requirements in the 2005 certification cycle. Conduct appeal hearings for companies that appeal the IWMB decision. Revise RPPC regulations to clarify requirements and level the playing field prior to undertaking the next compliance certification process.

Illegal Dumping Component

Staff will focus on efforts to:

- Establish a pilot program in Imperial County for regional cleanup of illegal dumping sites under the IWMB's Farm and Ranch grant program and a potential grant application under the Solid Waste Cleanup Program.
- Promote State sponsored legislation to address:
 - authority and funding options to enhance local and regional capabilities to prevent and redress illegal dumping;

IV. APPENDICES

List of Acronyms

LIST OF ACRONYMS

Acronym	Full Name
14 CCR	Title 14, California Code of Regulations
27 CCR	Title 27, California Code of Regulations
ARB	California Air Resources Board
BMP	Best management practice
Cal/EPA	California Environmental Protection Agency
CalTrans	California Department of Transportation
CEED	Compliance Evaluation and Enforcement Division
CHP	California Highway Patrol
CIA	Closed, Illegal, and Abandoned Disposal Sites
CPI	Consumer Price Index
CSAC	California State Association of Counties
DTSC	California Department of Toxic Substances Control
EA	Waste tire enforcement action
EA	Solid waste enforcement agency
EPA	U.S. Environmental Protection Agency
EPIC	California Environmental Protection Agency Environmental Protection Indicators for California
EPP	Enforcement Program Plan
IDETF	Illegal Dumping Enforcement Task Force
Inventory	Inventory of Solid Waste Facilities That Violate State Minimum Standards
IWMA	Integrated Waste Management Act
IWMB	Integrated Waste Management Board
LEA	Solid waste local enforcement agency
MSWLF	Municipal Solid Waste Landfill
NOV	Notice of Violation
PCM	Post-consumer material
PRC	Public Resources Code
RCRA	U.S. Resource Conservation and Recovery Act
RPPC	Rigid Plastic Packaging Container
SMS	State Minimum Standards at solid waste handling facilities
SWFP	Solid waste facility permit
SWRCB	California State Water Resources Control Board
TSDI	Taxable Sales Deflator Index
WCM Program	Waste Compliance and Mitigation Program

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STATE WATER RESOURCES CONTROL BOARD

I. EXECUTIVE SUMMARY

The State Water Resources Control Board (State Water Board) and the California Regional Water Quality Control Boards (Regional Water Boards) are charged with the protection of the waters of the State. To ensure compliance with clean water laws, the Water Boards issue permits and take enforcement actions for discharges of waste impacting the State's surface and ground waters. Collectively, the Water Boards regulate more than 40,000 facilities that discharge waste or that may have an impact on water quality. The Water Boards also regulate and enforce water rights in California.

During 2007, the Regional Water Boards were supported by 78 enforcement staff and 95 compliance staff. The State Water Board was supported by 21.5 enforcement staff. Based on information from the Water Boards' database, these staff brought more than 1,587 informal enforcement actions and more than 228 formal enforcement actions, where formal enforcement actions reflect the various enforcement authorities contained in statute. Approximately 110 of the 228 formal enforcement actions established nearly \$18 million in administrative civil liabilities. In developing these figures, it was apparent that the Water Boards could make significant improvements in tracking the allocation of resources, outputs and time committed to enforcement activities.

In the Water Boards' "Baseline Enforcement Report for Fiscal Year 2006-07," released in May 2008, performance measures were identified for the core regulatory enforcement programs. Some of these measures are incorporated into this report. While data is currently available to report on most input and output measures, the programs currently do not track outcomes that measure the environmental benefit of the water quality programs. Enforcement data for the Water Boards is also presented in the "2007 Enforcement Report," required by California Water Code section 13385(o)².

A) Major Program Highlights

- **National Pollutant Discharge Elimination System (NPDES) Wastewater Program.**

- Facilities regulated: 2,077
- Inspections conducted: 593
- Facilities with one or more violations: 528
- Violations documented: 4,185
- Percentage of violations with enforcement actions: 54%
- Enforcement actions issued: 223
- Penalties assessed: \$5,846,630

- **NPDES Stormwater Program.**

- Facilities regulated: 29,780
- Inspections conducted: 919
- Facilities with one or more violations: 956
- Violations documented: 1,190
- Percentage of violations with enforcement actions: 92%
- Enforcement actions issued: 1,203
- Penalties assessed: \$3,234,004

² Both reports are available at <http://www.waterboards.ca.gov/>.

- **Waste Discharge Requirements Program.**

- Facilities regulated: 6,530
- Inspections conducted: 620
- Facilities with one or more violations: 614
- Violations documented: 4,059
- Percentage of violations with enforcement actions: 51%
- Enforcement actions issued: 320
- Penalties assessed: \$7,717,787

- **Land Disposal Program.**

- Facilities regulated: 772
- Inspections conducted: 444
- Facilities with one or more violations: 121
- Violations documented: 224
- Percentage of violations with enforcement actions: 32%
- Enforcement actions issued: 46
- Penalties assessed: \$0

- **401 Certification/Wetlands Program.**

- Facilities regulated: 981
- Inspections conducted: -
- Facilities with one or more violations: 16
- Violations documented: 16
- Percentage of violations with enforcement actions: 100%
- Enforcement actions issued: 23
- Penalties assessed: \$862,161

- **Irrigated Lands Enforcement.**

- Facilities regulated: 32,300
- Field Inspections conducted: 213
- Aerial Inspections: 1,146
- Violations documented: 1,500
- Enforcement actions issued: 1,168
- Penalties assessed: \$4,400

- **Office of Enforcement.**

- Cases Investigated: 539
- Cases Closed: 25
- Complaints responded: 225
- Violations documented: 225
- Cases referred to District Attorney: 4
- Enforcement actions issued: 10
- Penalties assessed: \$172,086

- **Water Rights Enforcement.**

- Facilities regulated: 23,524
- Inspections conducted: 103

Facilities with one or more violations: 9,281
Violations documented: 3,103
Percentage of violations with enforcement actions: 1%
Enforcement actions issued: 118
Cases Closed: 221
Penalties assessed: \$81,150

B) What the Reported Data Tells Us

An examination of the information presented in this report highlights the significant ongoing data and resource challenges of the Water Boards. The majority of the information presented in the tables and figures is generated from the Water Boards' California Integrated Water Quality System (CIWQS), which is a database containing information on the Water Board's water quality programs. For many of the core regulatory programs covered by this report, key data elements are either missing or incomplete. Variation in data entry is apparent from region to region and a lack of data should not be interpreted as inactivity by individual Regional Water Boards. An outcome of the broader Water Board initiative to make CIWQS functional to meet internal and external data management needs is to provide useful data on compliance and enforcement activities.

Key General Statistics

- In 2007 the Water Boards issued more than 3,000 enforcement actions.
- The number of enforcement actions with fines issued during 2007 was 122.
- Statewide more than 2,200 regulated facilities exceeded their requirements at least once during 2007.
- At least 191 facilities under the core regulatory programs exceeded their permits more than ten times and for more than one pollutant.
- The amount of fines assessed remained constant for the last 3 years. During calendar year 2007, 111 administrative liabilities were assessed for multiple violations resulting in \$18 million in liabilities. In calendar year 2005, 114 actions and \$13 million in liabilities and the year 2006 with 75 actions and \$10 million in liabilities.
- Supplemental environmental projects and compliance projects represent 55% of fines collected.
- Of the 122 Administrative Civil Liability (ACL) actions assessed for calendar year 2007, 54 were assessed at the mandatory minimum penalty (MMP) under the NPDES wastewater program, representing approximately one third of the total liabilities assessed.

Enforcement Response

- Enforcement policies and procedures are being implemented inconsistently among the nine regional boards. Not all violations appear to be enforced according to policy and not all detected violations appear to be properly documented.
- Review of self monitoring reports (SMRs) has been substantially backlogged and CIWQS does not consistently track if reports are being received and reviewed.
- Information on compliance and enforcement expenditures is limited. The Water Boards do not generally budget and track expenditures specifically for compliance assurance and enforcement activities because these activities were traditionally integrated within the programs.
- The Regional Water Boards are not current in addressing violations subject to MMPs. As of May 2008, more than 7,000 MMP violations are required to be addressed representing more than \$20 million in penalties to be assessed. (Note: the current MMP Enforcement Initiative is expected to significantly reduce this figure by the end of FY 2008-09.)

Data and Databases

- Entry of violation and enforcement data varies significantly among the regions. This limits opportunities to assess the magnitude, frequency and duration of violations necessary to prioritize the limited enforcement resources.
- General use of the CIWQS database is inconsistent among regional boards and programs.
- Ability to conduct historical trends analysis is limited due to the change in rules for data tracking and reporting.

External Findings

During the year, 2007 three external organizations evaluated portions of the Water Boards' enforcement and related data management programs.

United States Environmental Protection Agency

The United States Environmental Protection Agency (US EPA) conducted the annual Enforcement and Compliance Assurance State Review Framework for the State of California. The State Review Framework is a nationwide review of state enforcement and compliance programs under the Clean Water Act. The review involves twelve standard elements that together measure the quality of inspections, enforcement, and data management. Major findings in the 2007 report include:

- Inspections: Excellent performance in FY 06-07.
- Enforcement: Highly effective in FY 06-07.
- Data management: Mixed quality.

This review, released on January 25, 2008³, concluded that the Water Boards' enforcement activity was "highly effective" for federal fiscal year 2006. US EPA made the following recommendations for the Water Boards' enforcement activities:

- Issuance of Time Schedule Orders (TSOs) should be coordinated with enforcement staff to ensure establishment of expeditious compliance schedules.
- Compliance orders, including Cease and Desist Orders (CDOs) and TSOs, should be issued concurrently with ACLs for dischargers with continuing violations, especially for significant noncompliance violations.
- Trade-offs related to MMPs versus compliance orders to match enforcement with water quality priorities should be considered.
- Regional Water Boards should ensure that all facilities in significant noncompliance (as defined by US EPA) receive timely formal enforcement with enforceable time schedules (CDO, CAO (Clean Up and Abatement Orders), or TSO).
- All enforcement actions should be entered into state and federal information management systems to better reflect the extent of enforcement work conducted.
- The State and Regional Water Boards should develop the capability to perform pretreatment program approval and enforcement. A long-term investment in pretreatment staffing expertise

³ US EPA released its review of the State of California's compliance and enforcement activities under the federal *Clean Water Act*. The results of the review are published as: *US EPA State Review Framework (SRF) Report re: Clean Water Act Compliance and Enforcement Activities, for July 1, 2005 – June 30, 2006, January 25, 2008*.

would help to ensure protection of Publicly Owned Treatment Works (POTWs), waters and biosolids quality.

Southern California Coastal Water Research Project (SCCWRP)

The Water Boards use the CIWQS database to track monitoring reports reviewed, inspections conducted, violations detected and enforcement actions issued. During 2007 CIWQS was reviewed by an expert review panel. The report included recommendations and benchmarks that were to be completed before a follow up review was performed. A follow up review was conducted and a report was presented in February 2008 that was very supportive of the Water Board's progress in implementing the review panel's recommendations. The report and the recommendations are available at the Water Boards internet web site⁴.

Environment California

In October 2007, the Environment California Research & Policy Center released a report titled "Troubled Waters: An Analysis of 2005 Clean Water Act Compliance"⁵. The study used information provided by the US EPA and analyzed all NPDES major facilities that exceeded their Clean Water Act permits between January 1, 2005 and December 31, 2005. The report identified that 69% (158) of major NPDES dischargers in California exceeded a permit limit at least once during 2005. Los Angeles County, with 22 facilities exceeding a permit limit at least once, was the second highest county in the nation, by number of facilities, exceeding a permit requirement. California was also listed among the top 10 states exceeding the permits limits with an average exceedance (% variance from permit limit) of 405%. California, with 194 exceedances above 500% of the permitted limit, was listed with the highest number of exceedances above 500% in the entire nation.

C) How the Agency Will Use This Information

The Water Boards are working together to improve the collection of program data and environmental information. The Water Boards are in the process of identifying performance measures for all programs that will align Water Board strategies with environmental results (see 2008 baseline enforcement report for a description of recommended performance measures for the enforcement program). The goal is to develop measurable targets and measurement systems for priority problems. These quantifiable targets must demonstrate improvement in water quality, regulatory compliance, staff efficiency, and program effectiveness. The Water Boards will integrate the data and information collected into its decision making process and everyday activities.

II. THE WATER BOARD'S ENFORCEMENT PROGRAM

A) Overview

Organization of the Report

The report provides compliance and enforcement information organized by water quality program. Water quality programs reflect the different nature of the sources of pollution and the type of waterbody impacted (i.e. surface waters versus groundwater). The report also provides consistent metrics for the

⁴ Available at http://www.waterboards.ca.gov/water_issues/programs/ciwqs/index.shtml.

⁵ The report is available at <http://www.environmentcalifornia.org/>.

five main water quality core regulatory programs which include NPDES Wastewater, NPDES Stormwater, Waste Discharge Requirements (WDRs), Land Disposal and Wetlands/401. For other Water Board enforcement related activities, including Office of Enforcement, Water Rights Enforcement, and Irrigated lands, the report uses a combination of performance metrics and descriptive analysis.

Mission Statement

The mission of the Water Board is: “To preserve, enhance, and restore the quality of California’s water resources and ensure their proper allocation and efficient use for the benefit of present and future generations. “

As described in the Water Board’s Water Quality Enforcement Policy, the State Water Board and the nine Regional Water Boards are responsible for swift and fair enforcement when the laws and regulations protecting our waterways are violated.

The Water Quality Enforcement Policy supports an environment where every violation should be met with a meaningful response from the Water Board and all significant violations should be addressed by formal enforcement action. Appropriate enforcement discourages violation of laws and instills public confidence. Within the Water Boards’ regulatory framework, enforcement actions not only help to protect public health and the environment, but also help to create an "even playing field," ensuring that the regulated community and other water users who comply with the law are not placed at a competitive disadvantage by those who do not.

Water Boards Enforcement Program Goals/Desired Outcomes

Enforcement is not considered a regulatory program. It is a business function that supports the regulatory programs and authorities of the Water Boards. Compliance assurance and enforcement are integral components of all of the core regulatory programs. Both NPDES permits and WDRs may include a monitoring program to ensure compliance with discharge requirements. Water Board staff conduct inspections to ensure compliance with permits or WDR conditions.

The main expected outcome of enforcement is to encourage compliance. The Water Boards’ Strategic Plan relies on deterrence-based enforcement with a strong and credible threat of punitive consequences to encourage voluntary compliance with water quality protection laws. The immediate goal of enforcement is to discover, document, report and properly respond to all violations in accordance with the water quality enforcement policy.

The Water Boards' core regulatory efforts promote compliance through a set of integrated actions that include:

- Ensuring permits are enforceable
- Conducting inspections
- Reviewing discharger Self Monitoring Reports (SMRs)
- Investigating complaints
- Addressing non-compliance with enforcement

The enforcement component of the core regulatory programs concentrates on:

- Documenting and tracking violations
- Initiating formal and informal enforcement actions

- Coordinating with law enforcement agencies
- Monitoring and reporting on the effectiveness of State and Regional Water Board actions.

The State Water Board's Water Quality Enforcement Policy⁶ describes the framework for identifying and investigating instances of noncompliance, for taking enforcement actions that are appropriate in relation to the nature and severity of the violation, and for prioritizing enforcement resources to achieve maximum environmental benefit. Enforcement strategies available to the Regional Water Boards range from the most informal to the very formal. An informal enforcement action can be as simple as a phone call or email while the most formal actions involve referral of a matter to the Attorney General for litigation. In between are Notices of Violation, Investigatory Orders, Cleanup and Abatement Orders, Cease and Desist Orders, and orders imposing Administrative Civil Liability. For the more formal actions, a hearing before the Regional Water Board will generally be necessary. Consistent use of formal enforcement actions to address the most serious violations is a fundamental goal of the Water Boards.

Ideally, serious violations must result in fair and appropriate consequences for the violators including consistent application of penalties and other wide-ranging sanctions available to the Water Boards by law. Moreover, penalties must be calculated to eliminate the economic advantage achieved through noncompliance with water quality laws

Organizational Structure

The Water Boards regulate water quality and administer a system of water rights in the state. The Regional Water Boards, funded and under the oversight of the State Water Board, implement water quality programs in accordance with policies, plans, and standards developed by the State Water Board.

The Water Boards are organized by regional watersheds and by programs. Every program has an enforcement component and every Regional Water Board coordinates its enforcement activities through an enforcement coordinator. For the last several years, the Regional Water Boards have been improving their enforcement structure by separating staff responsible for compliance and enforcement of Water Board programs from those responsible for writing the permits. Most of the Regional Water Boards have also created dedicated enforcement units that assume responsibility for much of the enforcement activity within a region. The Office of Enforcement at the State Water Board coordinates enforcement activities statewide.

The Water Boards also work with federal, state and local law enforcement, as well as other environmental agencies to ensure a coordinated approach to protecting human health and the environment.

Coordination between the nine Regional Water Boards and the State Water Board occurs through the enforcement roundtables and other Regional and State Water Board management meetings.

State Water Board

The State Water Board consists of five full-time salaried members, each filling a different specialty position. Board members are appointed to four-year terms by the Governor and confirmed by the Senate.

⁶ SWRCB Water Quality Enforcement Policy, February 19, 2002.

The State Water Board carries out its water quality responsibilities by (1) establishing discharge policies and standards; (2) implementing programs to ensure that the waters of the State are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants for the construction of wastewater treatment, water reclamation, and storm drainage facilities among others. Waste discharge permits are issued and enforced mainly by the Regional Water Boards, although the State Water Board issues some permits and initiates enforcement actions when deemed necessary.

The State Water Board is also responsible for the allocation of water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

In February 2002, the State Water Board adopted the Water Quality Enforcement Policy. The primary goal of the Enforcement Policy is to create a framework for identifying and investigating instances of noncompliance, for taking enforcement actions that are appropriate in relation to the nature and severity of the violation, and for prioritizing enforcement resources to achieve maximum environmental benefits.

The State Water Board is currently in the process of updating the February 2002 Enforcement Policy.

Regional Water Quality Control Boards, Watershed Based Organizations

There are nine semi-autonomous Regional Water Boards statewide comprised of nine part-time Board members appointed by the Governor and confirmed by the Senate. Regional boundaries are based on watersheds and water quality requirements are based on the unique differences in climate, topography, geology and hydrology for each watershed. Each Regional Water Board makes critical water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement action.

Eight of the nine Regional Water Boards have a dedicated enforcement unit⁷ to conduct many of the compliance and enforcement activities. Typical resources in the enforcement units may also include students and retired annuitants that support the work of regular staff. The main functions of the enforcement units include compliance checking, enforcement and permitting for all or some of the programs. In addition to the dedicated enforcement units in most of the regions, some programs, in some regions, continue to conduct their own compliance assurance and enforcement activities.

Approximately 175 Regional Water Board staff conducts compliance assurance and enforcement activities statewide, of these 77 work directly under a dedicated enforcement unit.

Most Regional Water Board enforcement units focus their attention on the five core regulatory programs such NPDES or WDRs. The rest of the programs generally use their staff for both permitting, compliance assurance and enforcement activities where applicable (not all programs have a permitting and enforcement element).

In general, prosecution is conducted with the assistance of the Regional Water Boards' legal counsel and the State Water Board's Office of Chief Counsel.

⁷ The San Francisco RWQCB is in the process of establishing a dedicated enforcement unit.

Scope of Water Board's Programs

The major areas of focus for Water Board programs in general include:

Major Water Board Functions
Water quality policy, planning, and standards
Plans and policies
TMDL (Total Maximum Daily Load)
Pollution control and remediation (cleanup) strategies
Pollution prevention and restoration of impaired waters
Municipal and industrial wastewater regulation (NPDES-wastewater)
Stormwater regulation (NPDES-stormwater)/
Dredge and fill regulation (401 certification) and wetlands protection
Waste discharge to land regulation (WDR)
Irrigated agricultural lands discharge regulation (ILRP)
Land disposal regulation (WDR)
Confined animal facilities (CAF) regulation
Forest activities coordination and regulation
Pollution remediation (cleanup)
Underground Storage Tanks (UST) site oversight
Department of Defense (DoD) site oversight
Contaminated site cleanup and Brownfield oversight (SLIC)
Water quality monitoring and assessment
Water use efficiency (recycling, desalination, conservation)
Water rights
Financial assistance

B) Water Quality Core Regulatory Enforcement Components

This report provides information on specific measures for the five core regulatory programs for which enforcement resources are most significant and a description of the rest of enforcement activities. The five core regulatory programs described in this report include:

- National Pollutant Discharge Elimination System (NPDES), Wastewater
- National Pollutant Discharge Elimination System (NPDES), Stormwater
- Waste Discharge Requirements (WDR)
- Land Disposal
- Wetlands and 401 Certification

The report also includes information on the following programs in which enforcement is significant but are not considered core water quality regulatory programs:

- Water Rights Enforcement
- Irrigated Lands
- Operator Certification
- Office of Enforcement, Special Investigations Unit and Underground Storage Tanks enforcement.

Coordination among core water quality regulatory programs and enforcement is done through regular program roundtables. The Division of Water Quality at the State Water Board is responsible for ensuring that policies and guidelines are implemented consistently across Regional Water Boards and programs and supports 15 programmatic roundtables to coordinate these efforts.

1) Description of Five Core Regulatory Program Components

a. Organization of the Report

The following table summarizes the basic statistics for the five core water quality regulatory programs at the Water Board.

Program 2007 Metrics	NPDES Waste Water	NPDES Storm Water	WDR	Land Disposal	401 Wetland
Regulated Universe	2,077	29,780	6,530	772	981
Total Program Staff (PY) for Fiscal Year 07/08	99.8	87.3	77.9	70.8	16
Program BUDGET 07/08	\$17,653,560	\$14,396,153	\$14,019,913	\$12,224,139	\$3,052,777

b. National Pollutant Discharge Elimination System (NPDES) Wastewater Program

Regulates the discharge of wastewater from point sources to surface waters (rivers, lakes, oceans, wetlands, etc), and discharges of treated groundwater to surface water. NPDES permits, issued by the Water Boards, are required for all point source pollution discharged directly into California's surface waters. Point source discharges are defined as planned, non-agricultural waste discharges from man-made conveyance systems. The NPDES program is mandated by the Clean Water Act and administered by the State. California has approximately 2,077 active NPDES permits protecting the State's water resources from industrial and municipal waste discharges.

The following table shows the number and type of permits regulated under the NPDES program:

Major Wastewater Dischargers Regulated Under Individual Permits:	268
Minor Wastewater Dischargers Regulated Under Individual Permits:	394
Minor Wastewater Dischargers Regulated Under General Permits:	1415
Total NPDES Wastewater:	2,077

The NPDES Wastewater, NPDES Stormwater program and 401 Certification program are mandated by the federal Clean Water Act and administered by the State. The NPDES program is delegated to the State Water Board.

Funding for the NPDES program is partially provided by US EPA through grants and the Federal Trust Fund. The State Water Board and US EPA Region IX coordinates the implementation of the Surface Water Programs, under a five-year Strategy Agreement for State Fiscal Years 2003-200, in accordance with the 2003 California Clean Water Partnership Agreement.

The Clean Water Act Section 106 work plan for fiscal years 2008-2013 for California Water Boards identifies the expected compliance and enforcement activities. Inspections will be conducted in conformance with the 2006 NPDES Memorandum of Agreement. All major dischargers are to be inspected at least once a year. Minor dischargers generally will be inspected once a year, as resources allow, but no less than once during a permit cycle. The workplan also identifies specific compliance and enforcement information that the Water Boards must submit to US EPA on a regular basis. Specifically, the Regional Water Boards are to report quarterly on all major NPDES dischargers in either significant or reportable noncompliance on the Quarterly Noncompliance Report (40 CFR, section 123.45).

US EPA also provides funding for direct contract assistance for inspections, audits and database development.

c. National Pollutant Discharge Elimination System (NPDES) Stormwater Program

Regulates stormwater discharges generated by runoff from land and impervious areas such as paved streets, parking lots, industrial and construction sites during rainfall events. Pollution from construction and industrial sites is regulated under the stormwater construction and industrial program. Pollution from urban surface street stormwater runoff is regulated under the municipal stormwater program. Pollution from highways and roads is regulated under the statewide stormwater general permit for the California Department of Transportation (CALTRANS).

The following table shows the number and type of permits regulated under the Stormwater program:

Construction Stormwater:	19,539
Industrial Stormwater:	9,631
Linear Stormwater:	85
Municipal Phase I:	394
Municipal Phase II:	131
Total Stormwater:	29,780

d. Waste Discharge Requirements (WDR) Program

Regulates the discharge of wastewater from point sources to land and groundwater, waste generated from confined animal facilities (agricultural operations where animals are kept and raised in confined situations such as dairies, feedlots, stables, and poultry farms) and all other pollution sources that can affect water quality not covered by other programs.

Under the WDR program, the Water Boards regulate liquid waste disposal impoundments and similar land disposal systems for liquid and solid wastes. The WDR program is authorized by provisions of the California Water Code. The permitting system addresses many types of waste discharges, including municipal, industrial and commercial sources. This system helps to protect California's groundwater resources from being adversely impacted from such waste disposal operations. Groundwater is an important source of water for the State as drinking water, for crop irrigation water and for water used in industrial and commercial operations. California has approximately 6,530 active WDRs protecting groundwater resources. The following table shows the number and type of permits regulated under the WDR program:

Wastewater Treatment Plants Discharging to Land:	1,656
Industrial Wastewater and Food Processing Plants Discharging to Land:	971
Wastewater Collection Systems (sanitary sewer overflow prevention):	1,088
Dairies and Confined Animal Facilities:	1,529
Recycled Water Use:	253
Timber Harvest Activities:	741
Other:	292
Total WDR/Non 15:	6,530

e. Land Disposal Program

Regulates discharges of waste to land that need containment in order to protect water quality, including landfills, waste ponds, waste piles, and land treatment units. The Water Boards are specifically required to develop regulations to "ensure" adequate protection of water quality and statewide uniformity.

Statewide, approximately 772 sites are currently regulated under the program along with about 1,800 historic (i.e. closed, inactive and abandoned) facilities. About 140 of these regulated sites are active municipal solid waste landfills.

The following table shows the number and type of permits regulated under the Land Disposal program:

Landfills:	280
Other (Surface impoundments, waste piles, and land treatment units, etc.)	492
Land Disposal:	772

f. Wetlands and 401 Certification Program

Regulates the dredging and disposal of sediments, filling of wetlands or waters, and any other modification of a water body.

The 401 regulatory program uses waste discharge requirements to regulate all discharges of dredged or fill material into State waters, including wetlands, riparian and headwater areas. Dredge or fill activities can involve channelization of streams, diversions, road and trail crossings, release of sediments that harm aquatic resources and water quality, and the release of toxic materials from re-suspending pollutants adsorbed by bottom sediments. The Water Boards issue approximately **1,000** Water Quality Certifications permits (§ 401) annually.

2) Enforcement Program Metrics

Data characteristics and conceptual model

Enforcement measures can be organized by the type of activity at each step in the compliance assurance and enforcement process. The Water Boards compliance assurance and enforcement strategy for the five core regulatory programs starts with monitoring compliance. Once violations are detected they must be properly documented electronically and in the case files. The next step is to enforce the violations according to the Water Boards enforcement policy. Finally, all of the information collected will be shared with the public. Some of the basic management questions that can be answered through the use of performance measures for compliance and enforcement include:

	Compliance Monitoring and Detection	Compliance Documentation	Enforcement	Information Sharing
Inputs	What resources are available for monitoring and inspection?	What resources are available for documenting compliance?	What resources are available for enforcement?	What resources are available for information sharing?
Activities	What is the strategy to monitor compliance?	What is the process to document compliance?	What is the enforcement process?	What is the current approach to make information available?
Outputs	Is compliance assessed?	Is compliance documented?	Are violations enforced according to policy?	Is compliance and enforcement information available?
Outcomes	Is compliance achieved?	Is compliance information stored, available and useful?	Is enforcement effective in ensuring compliance?	Is compliance and enforcement information useful/used?

For each category we can measure the resources available and used (inputs), the activities conducted, the products produced (outputs) and the environmental results (outcomes).

The data and statistics in this report are drawn directly from the CIWQS database and directly from the Regional Water Board enforcement coordinators and State Water Board program managers. It is important to note that while the CIWQS database was deployed in 2005, the Water Boards continue to work on the quality and completeness of the data as well as the functionality and reporting capabilities of the database. New business rules for data entry were implemented as the system was deployed and new information was required. Also the time needed to complete information for violations or compliance records was increased significantly. All of these factors affect the quality of the data and our ability to compare the data before and after June 2005.

In July 2007, the Southern California Coastal Research Project (SCCWRP) presented the findings and recommendations of the CIWQS review panel⁸, which was convened in response to a request from the

⁸ The report is available at

http://www.waterboards.ca.gov/water_issues/programs/ciwqs/docs/ciwqs_prelimreport.pdf

Water Boards to conduct an external review of CIWQS. The report stated that problems with the database exist. The review panel made the following specific recommendations:

- Reduce the project's scope
- Restructure CIWQS' project management
- Validate the system's requirements
- Rebuild key constituencies
- Address data quality issues
- Produce key reports
- Improve user interface

Since July 2007, the CIWQS management team has made significant improvements in the functionality of CIWQS database. In February 2008, the panel met again to review the progress achieved and reached the following conclusions⁹:

- CIWQS remains essential for the State Water Board to fulfill its mission
- CIWQS should be funded at an appropriate level
- The program's new direction should lead to success
- Panel members were particularly impressed with progress in reorganizing management and communicating with users.

Although reporting limitations, data quality and business interface issues still remain, the CIWQS management team is in the process of addressing all panel recommendations with the goal of significantly improving data quality and completeness. Additional challenges such integration and communication with federal databases (i.e. ICIS) remains.

CIWQS will provide the Water Boards with important compliance and water quality information to allow for better targeting of resources to areas of greatest need.

Program Inputs

Most compliance, investigation and enforcement activities are performed at the nine Regional Water Boards. Resources dedicated to compliance and enforcement activities vary significantly across both Regional Water Boards and programs.

The inputs, or resources for water quality protection, support many activities from planning and permitting, to taking eventual enforcement. Compliance and enforcement activities can require a high level of specialization and skill, from documenting inspections, identifying violations, preparing enforcement cases, to presenting expert testimony at hearing. Inspectors at the Water Boards ensure that requirements are complied with, review discharger's SMRs, and document violations in the database. Once violations are identified and documented, they are prioritized for enforcement. Cases are developed with the advice and assistance from the Water Boards' staff counsels. The Water Boards have approximately 177 staff dedicated to compliance and enforcement activities statewide. Permitting staff may also be involved in some enforcement activities.

The Office of Enforcement at the State Water Board had 15 staff dedicated for special investigations and enforcement during 2007. These staff included a team of 3 prosecutors assisting Water Board staff with their enforcement cases.

⁹ The February 2008 follow up is available at http://www.waterboards.ca.gov/water_issues/programs/ciwqs/index.shtml :

The Water Rights enforcement program at the State Water Board had 6.5 staff dedicated to enforcement during 2007.

Compliance activities are also supported by student assistants who review SMRs, and US EPA contractors conducting inspections.

The table below shows Regional Water Board resources devoted to compliance and enforcement activities.

PROGRAM 2007 METRICS	NPDES WASTEWATER	NPDES STORMWATER	WDR	LAND DISPOSAL	401 WETLANDS
Enforcement Dedicated Staff (PY)	40	47	47	38	2
Average Number of Permits/PY	21	341	84	11	61
Number of Permits Overseen Enforcement/PY	52	634	139	20	491

The table shows that, on average, each staff person dedicated to compliance and enforcement activities must review monitoring reports, inspect and provide enforcement for 52 NPDES Wastewater Treatment Facilities. This number varies significantly among programs with 634 facilities under the NPDES Stormwater Program, 139 under the Waste Discharge Requirements Programs and 491 for 401 certifications. The Land Disposal program has a lower number of facilities per dedicated enforcement staff reflecting the higher degree of compliance assurance and supervision (frequency of inspections) that landfills and other facilities regulated under the Land Disposal program require.

Outputs and Activities

There are three main types of activities directly related to the Water Boards' enforcement program. First are activities to assess compliance with requirements. Those include reviewing monitoring reports and conducting inspections, documenting and recording violations and finally, ensuring that violations receive an appropriate level of enforcement to encourage compliance and deter non-compliance.

Inspections and Monitoring Reports: Compliance inspections provide the Water Boards an opportunity to verify that information submitted in SMRs is complete and accurate. Compliance inspections address compliance with waste discharge requirements, laboratory quality control and assurance procedures, record keeping and reporting, time schedules, best management practices, pollution prevention plans, and any other requirements.

The frequency of inspection varies from program to program and with facility type. The frequency depends on the risk, the threat to water quality and state and federal mandates. For example, facilities with a high threat to water quality, such as landfills and large waste water treatment plants may be inspected more than once per year whereas small facilities with a lower threat may be inspected once every five years.

PROGRAM 2007 METRICS	NPDES WASTEWATER	NPDES STORMWATER	WDR	LAND DISPOSAL	401 WETLANDS
Monitoring Reports*	12,098	10,856	19,149	2,000	N/A-
Inspections	593	919	620	444	N/A-
Percentage of Facilities Inspected	26% **	3%	15% ***	58%	N/A-

* The number of monitoring reports is estimated.

** Note that for the NPDES Wastewater program, 70% of facilities classified as major were inspected during calendar year 2007.

*** Does not include Timber Harvest, Dairies and Water Use Recycling facilities.

Violations detected and documented: Documenting violations is a key element in the Water Boards' enforcement strategy. Violations are detected through the review of discharger's SMRs and through inspections conducted. Staff tracks and documents the violations in the Regional Water Boards' case files and in the data management system (CIWQS).

PROGRAM 2007 METRICS	NPDES WASTEWATER	NPDES STORMWATER	WDR	LAND DISPOSAL	401 WETLANDS
Total Number of Violations	4,185	1,190	4,059	224	16
Number of Priority Violations	1,168	289	256	2	-
Facilities With Violations	528	956	614	121	16
Facilities With Priority or Chronic Noncompliance Problems	184	200	38	2	-

Violations are assessed for priority for enforcement according to the Water Boards Water Quality Enforcement Policy. A breakdown of violation types and the number of violations is presented in the following table. A more detailed description of each violation category is provided in the 2007 mandated 13385(o) report¹⁰.

¹⁰ See page 29 of the 2007 Section 13385(o) report available at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/

VIOLATION TYPE	NPDES WASTEWATER	NPDES Stormwater	Waste Discharge Requirements	Land Disposal
Category 1 Pollutant	1,215	-	742	-
Reporting	1,062	697	1,247	82
Other Effluent Violation	934	5	779	6
Category 2 Pollutant	461	-	38	-
Receiving Water	148	-	7	-
Monitoring	142	4	487	32
Violation of Non-Effluent Permit Condition	66	32	543	28
Sanitary Sewer Overflow	50	2	137	-
Acute Toxicity	26	-	-	-
Chronic Toxicity	23	-	-	-
Failure to Obtain Permit	14	7	-	-
Unauthorized Discharge	18	32	31	5
Other Requirement	6	6	34	4
Groundwater	3	-	10	61
Stormwater Pollution Prevention Plan	-	53	-	-
Other Codes	-	2	1	-
Failure to Implement Best Management Practices	17	216	1	-
Basin Plan Prohibition	-	2	-	-
Failure to File	-	2	-	-
Failure to Pay Fees	-	128	1	1
Enforcement Action	-	2	1	5
TOTAL	4,185	1,190	4,059	224

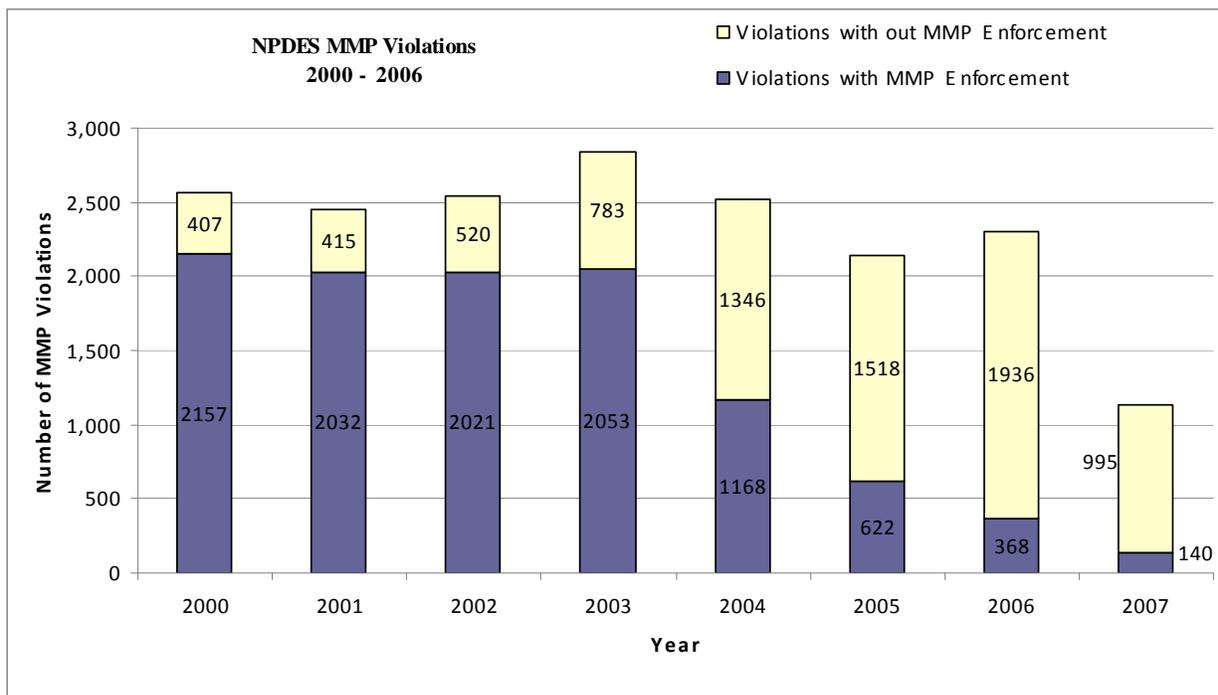
Types of violations differ among programs. The most common documented type of violation is the failure to submit a required report.

Under the NPDES program certain violations, classified as serious and chronic, are subject to a mandatory minimum penalty (MMP) of \$3,000 per violation ¹¹. Since January 2000 the Water Boards have identified 18,442 NPDES wastewater violations subject to mandatory minimum penalties. Of these, 10,562 have already received a penalty at or above the required minimum. Approximately, 7,880 violations, or 43% of total MMP violations were still pending at the end of 2007 to receive the mandatory penalty. The Water Boards are now initiating a strategy to ensure that the remaining MMP violations are addressed.

The following graph shows the number of MMP violations documented and the number receiving a penalty at or above the required minimum.

¹¹ For a more detailed description and analysis of MMPs see the 2007 section 13385(o) Water Boards Enforcement Report

MMP Violations with and without enforcement. 2000-2007.



Enforcement Actions: The following table shows the number of formal enforcement actions taken by the Regional Water Boards during calendar year 2007. As detailed in the Water Quality Enforcement Policy, the Water Boards use progressive enforcement to initiate corrective actions. For some violations, an informal response or a Notice to Comply is sufficient to inform the discharger of the violation resulting in a swift return to compliance. If the violation continues, the enforcement is escalated to increasingly more formal and serious actions until compliance is achieved. Formal enforcement may also be an appropriate first response for serious violations.

Enforcement Action Type	PROGRAM					Total
	NPDES	STORM WATER	WDR	LAND DISPOSAL	401 WETLANDS	
Oral Communication	38	147	20	-	-	205
Staff Enforcement Action	25	163	97	2	-	287
Notice of Violation	68	175	134	30	16	427
Notice to Comply	1	96	-	-	1-	97
Notice of Stormwater Non-compliance	-	574	-	-	-	574
13267 Letter	3	8	22	4	-	37
Time Schedule Order	13	-	2	1	-	16
Clean-up and Abatement Order	3	7	14	7	2-	31
Cease and Desist Order	10	-	14	2	-	26
Administrative Civil Liability	59	32	15	-	4-	110
Referral to Other Agency	-	-	-	-	-	-
Formal Referral to Attorney General	-	-	-	-	-	-
Settlement Court Order	3	1	2	-	-	6
TOTAL	223	1,203	320	46	23	1,815

Some enforcement actions are specific to certain programs such as the Notice of Stormwater Noncompliance issued under section 13399.31 of the California Water Code.

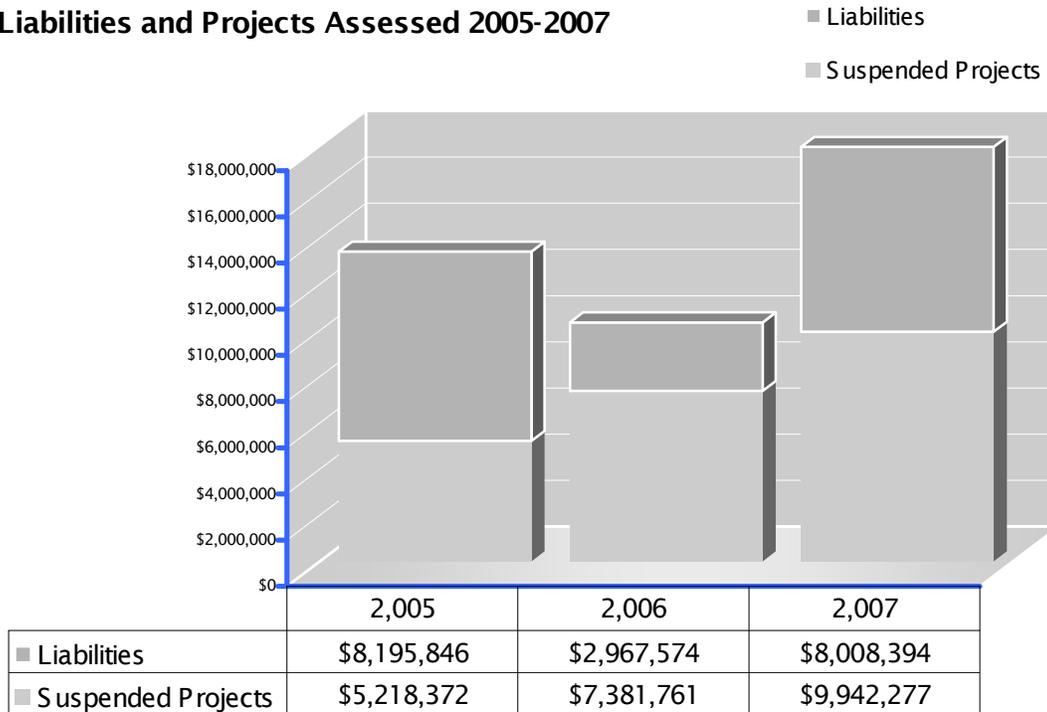
The number and amount of penalties assessed under each one of the five core regulatory programs is displayed in the following table.

Program 2007 Metrics	NPDES Wastewater	NPDES Stormwater	WDR	Land Disposal	401 Wetlands
Number of Administrative Civil Liability Actions Issued	59	32	15	0	4
Penalties Assessed	\$5,846,630	\$3,234,004	\$7,717,787	\$-	\$862,161
Received (paid) Liabilities	\$1,633,460	\$1,751,785	\$750,995	\$-	\$61,411
SEPs and Compliance Projects Completed	\$1,204,170	\$427,487	\$154,505	\$-	\$-

Over time, the number of ACL actions has remained fairly constant. During 2005 the Regional Water Boards issued 110 ACLs of which 48 addressed mandatory minimum penalties. For the year 2006, 75 actions were issued, 35 addressing mandatory minimum penalties. Last year, 2007, 120 ACLs were issued, 54 of them addressing mandatory minimum penalties. Under the NPDES program almost 90% of the ACLs (54 out of 59) addressed violations subject to mandatory minimum penalties.

The following graph shows the amount and structure of the penalties assessed for calendar years 2005 - 2007. Overall, 54% of the assessed liabilities were suspended pending the completion of a compliance project or a supplemental environmental project (project).

Liabilities and Projects Assessed 2005-2007



Program Outcomes

Compliance Rates and Enforcement Response

At this point, we are not able to assess environmental results although measures and metrics have been developed and the Water Boards are working on a methodology to track and monitor the data necessary to evaluate the effectiveness of the enforcement programs and the environmental results achieved.

The success of the enforcement program is being measured using two metrics: the enforcement response to violations and the overall compliance rate.

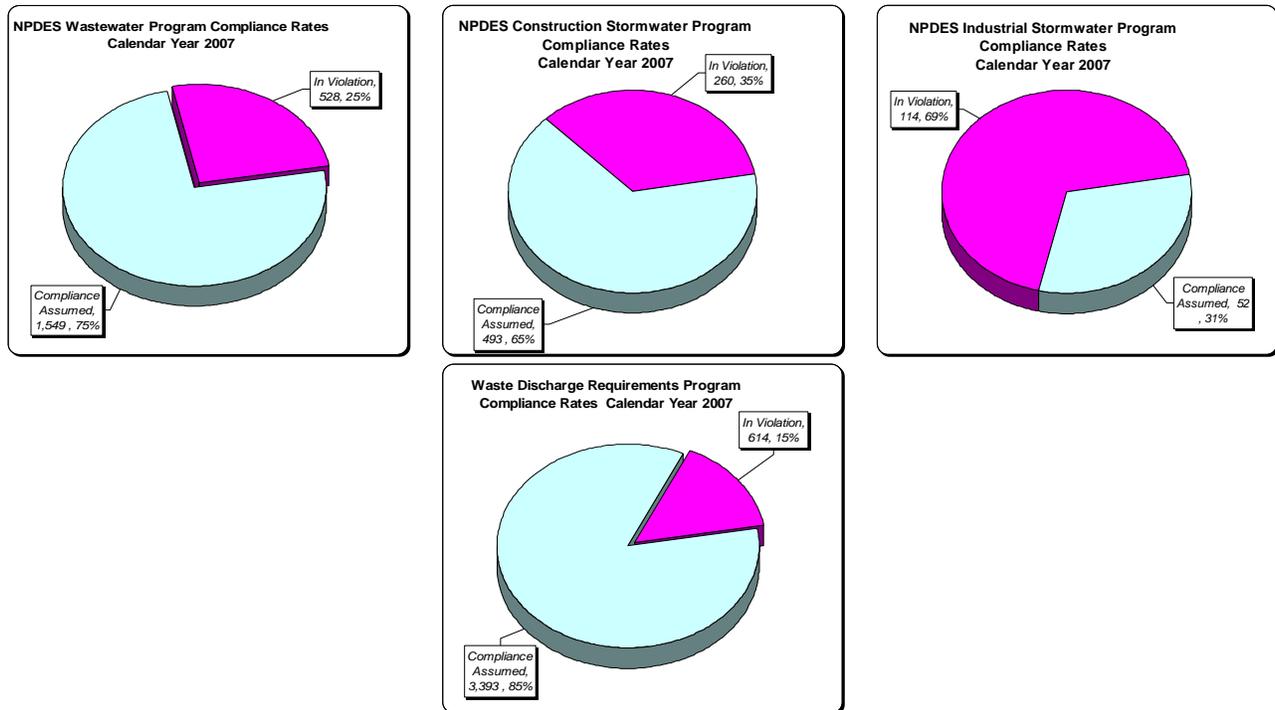
The 2002 Water Quality Enforcement Policy provides the criteria for enforcing violations. As shown in the following table the enforcement response varies significantly among programs.

Program 2007 Metrics	NPDES Wastewater	NPDES Stormwater	WDR	Land Disposal	401 Wetlands
ENFORCEMENT RESPONSE (% of violations with enforcement)	54%	92%	51%	32%	100%
COMPLIANCE RATE (Facilities with violations/regulated universe)	75%	97%	85%*	84%	98%

* Does not include Timber Harvest, Dairies and Water Use Recycling facilities.

During calendar year 2007, Water Board enforcement staff participated with Cal EPA in developing consistent compliance rates for the different programs. The following table displays the compliance rates for the core regulatory programs following the approach adopted. The NPDES storm water program has been divided into its two elements, construction and industrial to display in the charts. The wetlands and land disposal programs were not charted but are shown in the table located on the following page.

WATER BOARDS CORE REGULATORY PROGRAMS COMPLIANCE RATES



For purposes of the report, we define “compliance rate” as the number of facilities out of compliance divided by the total number of facilities for which compliance has been assessed (inspected, monitoring reports reviewed, etc). A facility is considered out of compliance if it has any violations during the reporting period.

Because we want to measure the magnitude, frequency and duration of noncompliance, we are measuring not just the number of facilities with at least one violation in the reporting period but also the number of facilities with priority violations and the number of facilities with repeated violations. Finally we also want to know the average number of violations per facility in violation.

For the NPDES wastewater, WDR and land disposal programs, the compliance rate assumes that all facilities in the program have been assessed for compliance either through inspections or through a review of monitoring reports. The number of facilities with compliance assessed is an aggregate and may not accurately reflect the differences in facility type, activity type, size and waste type discharged.

The exception to this approach is the stormwater program for which the compliance rate is calculated based on the number of facilities found in violation divided by the number of facilities inspected.

Appendix A: Summary of Core Regulatory Programs 2007 Metrics:

PROGRAM 2007 METRICS	NPDES WASTEWATER	NPDES STORMWATER	WDR	LAND DISPOSAL	401 WETLANDS
REGULATED UNIVERSE	2,077	29,780	6,530	772	981
Number of Staff (PY) 07/08	99.8	87.3	77.9	70.8	16
BUDGETED 07/08	\$17,653,560	\$14,396,153	\$14,019,913	\$12,224,139	\$3,052,777
Enforcement Resources (PY)	40	47	47	38	2
Permits/PY	21	341	84	11	61
Permits/Enforcement PY	52	634	139	20	491
Monitoring Reports	12,098	10,263	19,149	2,000	-
Inspections	593	919	620	444	-
Percentage of Facilities Inspected	29%	3%	15%*	58%	0%
Facilities With Violations	528	956	614	121	16
Facilities With Priority or Chronic Noncompliance Problems	184	200	38	2	-
Total Number of Violations	4,185	1,190	4,059	224	16
Priority Violations	1,168	289	256	2	-
Enforcement Actions	223	1,203	320	46	23
Formal Actions	91	48	69	14	6
Informal Actions	132	1,155	251	32	17
Number of Administrative Civil Liability Actions	59	32	15	0	4
Penalties Assessed	\$5,846,630	\$3,234,004	\$7,717,787	\$0	\$862,161
Received Liabilities	\$1,633,460	\$1,751,785	\$750,995	\$0	\$61,411
SEP+Compliance Projects Completed	\$1,204,170	\$427,487	\$154,505	\$0	\$0
Enforcement Response. % of Violations with Enforcement	54%	92%	51%	32%	100%
COMPLIANCE RATE (Facilities with violations/regulated universe)	75%	97%	85%*	84%	98%

* Does not include Timber Harvest, Dairies and Water Use Recycling facilities

In future reports, we plan to measure the compliance rates over time by facility type and size (wastewater treatment plants, major-minor, food processing plants etc.). We also plan to measure compliance rates for those receiving enforcement compared to those without any enforcement.

Other outcome measures proposed to be included in future reports are:

- Deterrence
- Recidivism
- Economic and Environmental Benefits

Environmental/Health Outcomes

The Water Boards are not currently tracking information on outcomes achieved from enforcement actions. The Environmental Protection Indicators for California include several indicators that will be related to enforcement actions in future reports, these include the coastal beach availability Indicator and the spill/release episodes indicator among others.

3) Program Limitations

Resources: The Enforcement program requires many different skills and resources. Enforcement conducted as an element of the regulatory programs does not have a clearly identified budget and resources may be directed to other areas and activities based upon need. Training efforts must be directed to improve our ability to check compliance and take enforcement actions.

Data and Information: Our ability to process and manage data and information limit our ability to evaluate program performance and prioritize the allocation of enforcement resources to the highest threats of water quality.

Measuring Outcomes: Our tracking systems do not currently report on environmental outcomes. Although we are improving our ability to measure behavioral outcomes, such as compliance rates, the enforcement program is not currently measuring environmental outcomes achieved by the enforcement strategies.

C) Water Quality: Other Enforcement Program Components

1) Irrigated Lands Regulatory Program (ILRP)

Discharges from agricultural lands include irrigation return flow, flows from tile drains, and storm water runoff. These discharges can affect water quality by transporting pollutants including pesticides, sediment, nutrients, salts (including selenium and boron), pathogens, and heavy metals from cultivated fields into surface waters. Many surface water bodies are impaired because of pollutants from agricultural sources. Groundwater has also suffered pesticide, nitrate and salt contamination. Statewide, approximately 9,493 miles of rivers/streams and some 513,130 acres of lakes/reservoirs are listed on the 303(d)¹² list as being impaired by irrigated agriculture. Of these, approximately 2,800 miles, or approximately 28%, have been identified as impaired specifically by pesticides.

To control and assess the effects of discharges from irrigated agricultural lands, the Los Angeles (Region 4), Central Coast (Region 3), Central Valley (Region 5), and San Diego (Region 9) Regional

¹² A copy of the most current list of impaired waterbodies is available at http://www.swrcb.ca.gov/water_issues/programs/#impaired

Water Boards have adopted comprehensive conditional waivers. The Colorado River Basin and the North Coast Water Boards have adopted a Conditional Prohibition/waiver as a Total Maximum Daily Load (TMDL) implementation plan incorporated into their Basin Plan to control dischargers from irrigated agriculture. An estimated 80,000 growers, who cultivate over 9 million acres, are subject to conditional waivers in these regions. These Regional Water Boards have made significant strides to implement their waiver programs and are committed to continuing their efforts to work with the agricultural community to protect and improve water quality. The number of acres and agricultural operations will increase as other Regional Water Boards adopt conditional waivers for discharges from irrigated agricultural land. Regional Water Boards 2 and 6, have no immediate plans to adopt waivers for agricultural discharges, but may do so eventually to implement TMDLs.

The Regional Water Boards are using proactive solutions to control agricultural discharges. One solution is a pilot project that assigns roles for implementing the waivers to County Agricultural Commissioners. A Memorandum of Understanding signed by staff from the State Water Board, the Central Valley Water Board, the Department of Pesticide Regulation and County Agricultural Commissioners describes these roles. In addition, the Los Angeles, Central Coast, and San Diego Water Boards have used a comprehensive public outreach and education approach. Consequently, 70 percent of their agricultural communities are participating in the program. The Colorado River Basin Water Board is using an innovative, and apparently successful, approach in addressing sediment impairment in Imperial Valley agricultural drains. As a control mechanism, Colorado River Basin Water Board staff has developed a “conditional prohibition,” as allowed by the basin plan. The conditional prohibition is implemented by the Colorado River Basin Water Board’s TMDL program in a collaborative effort with the Imperial County Farm Bureau. A recent review of the program indicates reduction in sediment loads.

To date, the most significant enforcement related efforts have occurred at the Central Coast, Central Valley, and Los Angeles Regional Water Boards. While the Central Coast Regional Water Board deals with agricultural dischargers individually, the Central Valley Regional Water Board deals with “third-party” coalitions that represent the individual dischargers (an approach necessary due to the number of dischargers).

Central Valley Irrigated Lands Enforcement Program

The Central Valley Regional Water Board has more than 7 million acres of irrigated lands and 21,000 miles of agricultural channels and agricultural dominated waterways. More than 28,000 growers, with over 70,000 parcels encompassing more than 5 million acres are actually enrolled in nine Coalition Groups and six dischargers have individual waivers. Although the current participation level is good, there are still thousands of acres of irrigated lands with no regulatory coverage, which must be addressed.

The Irrigated Lands program in Region 5 has 18 dedicated staff of which five (5) are dedicated to compliance, enforcement, outreach and planning.

In 2007 staff received, reviewed, and responded to Semi Annual Monitoring Reports from eight Coalition Groups and Annual Monitoring Reports from five Irrigation Districts. Some of the Coalition Groups and Irrigation Districts began developing Management Plans or Technical Reports in response to water quality exceedances.

The program conducts field inspections and use Geographic Information Systems (GIS) to verify land use. GIS integrates mapping capability with aerial photography and land use to target field inspections and enforcement activities. Inspections are conducted to verify responses to enforcement actions or for any other water quality related issue. An inspection of a property can lead to suggested management practices or to the issuance of an ACL.

Most enforcement in the ILRP is done on an informal level, which is efficient in regards to staff time and seems to be very effective with the grower community. Typical enforcement actions used in the program include California Water Code section 13267 Orders, Notice of Violations (NOV), Clean Up and Abatement Orders (CAO) and Administrative Civil Liability (ACL). Section 13267 Orders are sent to non-participating parcels, requiring them to submit a technical report that describes the agricultural operations on the property and why they have not obtained regulatory coverage. For those who fail to respond to the 13267 Order, staff issues an NOV. The NOV gives the land owner a final opportunity to respond before any penalties are assessed.

In 2006, over 1,400 13267 Orders and 428 NOVs were issued to land owners. Much of 2007 was dedicated to conducting follow-up work on these Orders issued and resulted in five ACLs being issued.

In 2007, 88 parcels were inspected that belonged to 43 owners and accounted for about 5,000 acres. Staff also inspected 1,146 parcels belonging to 432 owners and accounting for about 91,000 acres via aerial photography¹³.

In 2007, five ACLs were issued for \$3,000 each. Of the original ACLs was paid in full, three were retracted and reissued with adjusted amounts and one was withdrawn. The total collection of fines from ACLs was \$4,400. Enforcement actions issued during calendar year 2007 also included the issuance of two NOVs to Coalition Groups for late reporting.

Central Coast Agriculture Waiver Enforcement Program

Since adoption in July 2004, much of the Regional Board effort has been directed at ensuring that all farming operations are enrolled and meeting program requirements (education and farm water quality plans). Approximately 1,800 irrigated farming operations are enrolled, representing about 93% of the 438,000 acres of irrigated farmland in the Central Coast Region. The program has two personnel years (PYs) and is also supported with resources from the Nonpoint Source Program and the TMDL programs.

The program does not have dedicated enforcement resources. The enforcement program coordinates with the Regional Water Board enforcement unit and augments that with staff from the Agriculture Waiver program.

The Agriculture Waiver program conducted about 25 inspections in 2007 (beginning in Sept.). The target for 2008 is 95. From the inspections conducted, the program finds that most operations are implementing some level of water quality management practices; however, many inspections result in referrals to technical assistance providers and follow-up actions. During 2008, the program will continue to pursue enforcement against non-filers, and against those who are not meeting their monitoring obligations.

¹³ Calculations based on current analysis of available data.

The unit issued five ACLs to non-filers in 2007. All dischargers receiving ACLs are now in compliance and have enrolled in the program. Penalties imposed are being settled. Other enforcement actions included 500 formal 13267 letters to non-filers, 46 NOV's to non filers, and 215 NOV's to non-payers.

Los Angeles Region Conditional Waiver for Irrigated Lands

The California Regional Water Quality Control Board Los Angeles Region adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R4-2005-0080) on November 3, 2005. The program has two (2) PYs and is also supported with resources from the TMDL programs. The program uses the dedicated two (2) PYs to conduct enforcement. The objectives of the program are to monitor the water quality effects, and, if required, mitigate those impacts from runoff from irrigated agriculture facilities in the coastal watersheds of Los Angeles and Ventura Counties. Currently, 75% of the irrigated acreage in the Region is enrolled in the Conditional Waiver program. On November 15, 2007, the Regional Board sent NOV's to approximately 400 growers who had not yet enrolled in the Conditional Waiver program. The NOV's generated positive feedback from the stakeholder community and approximately 12,000 additional acres were enrolled in the Conditional Waiver program. In addition, growers in the Los Angeles Region have completed a combined total of 11,187 hours of required water quality education.

The following table summarizes the key statistics for the activities conducted in the Central Valley and Central Coast Water Quality Control Boards.

Irrigated Lands and Agriculture Waiver Enforcement Program Area (2007 Metrics)	Central Coast Region 3	Los Angeles Region 4	Central Valley Region 5
REGULATED UNIVERSE (GROWERS)	1,800	2,500	28,000
Program Resources (PY)	2.0	1.3	18.0
Enforcement Dedicated (PY)	0.0	0.0	5.0
Monitoring Reports Reviewed		2	
Field Inspections Conducted	25	100	88
Aerial Inspections Using GIS			1,146
Violations (includes failure to report)	500	1,000	
Enforcement Actions Taken	761	400	7
Formal Actions (includes 13267 letters)	500		5
Informal Actions (Notices of Violation)	261	400	2
Administrative Civil Liabilities	5		5
Penalties Assessed	\$	\$-	\$4,400

2) Office of Enforcement. State Water Board

The Office was formed in mid-2006 to emphasize the importance of enforcement as a key component of the Water Boards' core regulatory functions and statutory responsibilities. The role of the Office is to ensure that violations of State and Regional Water Board orders and permits result in firm, fair, and

consistent enforcement both through direct actions, the development of policies and guidance, and identification of metrics for decision-making on enforcement related issues.

The Office reports directly to the State Water Board's Executive Director. The Office is comprised of 6 legal and 15 investigative staff. The investigative staff is divided into two units, the Special Investigations Unit (SIU) and the Underground Storage Tanks (UST) Enforcement Unit. Consolidation of Water Boards' enforcement attorneys into the Office began in Fiscal Year 2006/2007 and is continuing into Fiscal Year 2007/2008.

Special Investigations Unit (SIU) in the Office of Enforcement, State Water Resources Control Board

This unit undertakes the following activities:

- **Operator Certification Program:** During the 2007 fiscal year, SIU investigated approximately 50 Waste Water Treatment Plan (WWTP) operator certification cases, opened eight new operator certification cases and closed about 25 cases. Some of these cases represent multiple issues being investigated at a single facility. Of the cases closed, four resulted in collection of penalties totaling \$48,000, and six resulted in disciplinary actions or warning letters.
- **Requests for Investigative Assistance:** The SIU responds to requests from the Regional Water Board for investigative assistance. The reasons for these requests vary from a simple need for help due to limited staffing, to requests for specialized expertise and investigation. In 2007, SIU provided assistance for 11 such cases.
- **Investigation Directly by SIU:** The State Water Board receives and reviews numerous complaints. In 2007, approximately 225 complaints were received through the Cal/EPA Online Complaint system. Additionally, The State Water Board may be contacted directly for assistance with a water quality matter. The vast majority of these complaints are reviewed and sent directly to the appropriate Regional Water Board. Occasionally, a complaint will request direct action by the State Water Board, and these are usually addressed by the SIU.
- **Enforcement Training:** Assistance in enforcement training includes a number of activities. SIU assisted with the Cal/EPA Enforcement Symposium held annually. This involves event planning and preparation of training materials. SIU assists with the Cal/EPA Basic Inspector Training held at various times throughout the year, providing training on how to conduct an effective inspection. SIU worked on preparation and delivery of a training event in conjunction with UC Davis and UC Berkeley on the economics of enforcement. SIU staffs have also worked with the Water Board Training Academy and UC Davis to develop a course on Basic Waste Treatment Plant Operation for Water Board staff. SIU staff are working with certain Regional Water Board inspectors to develop their inspection and investigative abilities.
- **Other Activities:** a) referrals; The Office is the primary legal contact point for criminal or civil enforcement actions for water quality violations that are referred by the Regional Water Boards to outside prosecutors such as the Attorney General's Office or district attorneys, b) enforcement coordination; The Office coordinates the monthly Enforcement Roundtables that include representatives of the nine Regional Water Boards and other enforcement partners such as US EPA and local prosecutors, c) policy development; The Office is responsible for updating the Water Quality Enforcement Policy. The Water Boards' Water Quality Enforcement Policy articulates enforcement expectations and priorities.

Underground Storage Tank (UST) Enforcement Unit, Office of Enforcement, State Water Resources Control Board

During calendar year 2007, the UST Enforcement Unit has a number of ongoing investigations regarding statewide UST construction issues, cleanup and Cleanup Fund fraud cases.

- UST Leak Prevention: 252 oil company/retail gas stations had been under investigation during 2007 for potentially more than 530 violations. Actions included referrals to other agencies and filing the cases in court. Also, 21 Major oil company/retail gas stations were investigated for more than 35 potential violations. The unit is also assisting the Attorney General Office with the investigations of 500 sites. Furthermore, 40 City owned UST facilities were investigated during 2007 detecting more than 225 violations. The Unit referred the cases to other agencies for enforcement.
- UST Cleanup fund: 43 cleanup fund claims and 25 claimants were investigated during 2007. The cases were referred to other agencies for enforcement. Actions included 354 hours of community service and \$9,586 in penalties. Also 122 UST remediation facilities where work was performed were investigated. These cases were also referred to other agencies for enforcement.
- Tank Tester Licensing: Four cases were referred to the District Attorney office for enforcement assessing penalties of up to \$162,500 and 120 days of license suspension.

Prosecution Support, Office of Enforcement, State Water Resources Control Board

The Office's attorneys work with regional prosecution staff to bring administrative enforcement cases before the State Water Board and the Regional Water Boards including significant water quality enforcement cases and cases from programs that are implemented by the Regional Water Boards. The prosecution team at the Office of Enforcement has six attorneys.

D) Water Rights Program

The State Water Board is the state agency with primary responsibility for the administration and regulation of water rights in California. The Division of Water Rights allocates water rights through a system of permits, licenses and registrations that grant individuals and others the right to beneficially use reasonable amounts of water. Water rights permits help to protect the environment from impacts that occur as a result of water diversions and include conditions to protect other water users and the environment. According to the State Water Board's water rights database system, there are 38,579 water right records throughout California. In addition, more water rights have been adjudicated by the courts, exempted by legislation, or are otherwise being exercised and not reported to the State Water Board.

The following table shows the number and type of water rights on file with the State Water Board:

Applications:	481
Permits:	1,585
Licenses:	10,950
Small Domestic and Livestock Stockpond Registrations	735
Stockpond Certificates:	5,305
Groundwater Extraction Claims:	3,797
Statements of Water Diversion and Use:	10,446

Federal Fillings:	1,974
Other Water Rights:	193
Total water rights:	38,579

Of these, the State Water Board has authority over the applications, permits, licenses, registrations and certifications.

Water Rights Enforcement Program Organization and Resources

The Division's Enforcement Program is responsible for statewide water right compliance and enforcement. Currently, the Enforcement Program is comprised of three separate program areas:

- The Licensing Program focuses on ensuring reasonable beneficial use of water and checking compliance for the 1,628 permits. The unit has six full time staff of which 0.5 PY is dedicated to enforcement activities.
- The Complaints Program focuses on responding and analyzing approximately 45 complaints every year. Complaint allegations relate to unauthorized diversion and use of water, unreasonable or wasteful use of water, and impacts to public trust resources under all types of water rights. The unit has 4.8 staff of which 0.5 PY is dedicated to enforcement activities.
- The Compliance Program proactively conducts watershed-based investigations on permitted and licensed facilities and facilities that have no basis of right known by the State Water Board. The unit has six staff of which 5.5 PY is dedicated to enforcement.

All three programs initiate formal and informal enforcement actions to curtail illegal diversions and to protect prior rights and instream beneficial uses.

Compliance assurance with water rights requirements relies on monitoring reports review, inspections and complaints.

- Monitoring reports; The State Water Board requires water rights holders to complete and return self-monitoring reports including annual Progress Reports by Permittees and the Triennial Reports of Licensee. Special permit or license terms may also require submittal of special reports, such as those required to comply with water right Permit Terms 91 and 93. All self-monitoring reports are signed under penalty of perjury.
- Inspections; The State Water Board conducts compliance inspections and illegal diversion investigations in high resource-value watersheds including those containing threatened and endangered species. The State Water Board selects targeted watersheds annually based, in part, on recommendations from the Regional Water Quality Control Boards, the Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. For each target watershed, State Water Board staff develops a project priority list based on diversion quantity, special terms, or potential violations gleaned from self-monitoring reports and existing facilities without known water rights. During a five-year study period of compliance inspections from 1998 to 2003, the State Water Board determined that 38 percent of inspected facilities were in violation of water right requirements. Another 11 percent of facilities were subject to revocation or partial revocation of their water rights due to non-use of water. Thus, almost 50 percent of the inspected facilities were in violation of their water right.
- Complaints; The State Water Board relies on local residents, other agencies, and other interested persons to help them identify potential water right violations. Information regarding an actual or

potential unauthorized activity is often obtained through a formal written complaint filed by the public or by another public agency. Complaints may be based on allegations that a diversion of water is in violation of permit or license terms or conditions, is without basis of right, constitutes a misuse of water (i.e., a waste or unreasonable use of water or unreasonable method of diversion), or adversely affects public trust resources in an unreasonable manner.

Water Rights Enforcement Program Outputs

All three enforcement programs initiate formal and informal enforcement actions to curtail illegal diversions and to protect prior rights and instream beneficial uses. The following table shows the number and type of enforcement actions taken by the State Water Board Division of Water Rights during calendar year 2007.

Water Right Enforcement Actions for Calendar Year 2007				
Enforcement Action Type	Water Rights Enforcement Program			Total
	LICENSING	COMPLIANCE	COMPLAINTS	
Oral Communication	12	30	7	49
Staff Enforcement Action	12	29	7	48
Notice of Violation	-	-	-	-
Permit and License Revocation Orders Issued	16	-	-	16
Cease and Desist Order	1	2	-	3
Administrative Civil Liability	1	1	-	2
Referral to Other Agency	-	-	-	-
Formal Referral to Attorney General	-	-	-	-
Settlement Court Order	-	-	-	-
TOTAL	42	62	14	118

The next table summarizes the basic statistics regarding the resources, the activities and actions taken by the three enforcement programs in the Division of Water Rights during calendar year 2007.

WATER RIGHTS Enforcement Program Area	LICENSING	COMPLIANCE	COMPLAINTS	TOTAL Water Rights
REGULATED UNIVERSE	1,628	11,450	10,446	23,524
Enforcement Section (PY) 07/08	6.0	6.0	4.8	16.8
ENFORCEMENT BUDGET 07/08	\$1,082,582	\$1,101,541	\$789,776	\$2,973,899
Enforcement Dedicated Resources (PY)	0.5	5.5	0.5	6.5
Permits/PY	271	1,908	2,176	1,400
Permits/Enforcement PY	3,256	2,082	20,892	3,619
Monitoring Reports Reviewed	1,221	2,641	3,501	7,363
Field Inspections Conducted	49	20	34	103

WATER RIGHTS Enforcement Program Area	LICENSING	COMPLIANCE	COMPLAINTS	TOTAL Water Rights
Violations* (not including reporting violations)	344	3,108	2,726	6,178
Violations for reports not submitted	563	1,123	1,417	3,103
Priority or Chronic noncompliance problems	91	423	414	928
Violations found by inspection	24	53	14	91
Priority violations detected	1	9	0	10
Enforcement Actions Taken	42	62	14	118
Formal Actions (Revocations, ACLs & CDOs)	18	3	0	21
Informal Actions	24	59	14	97
Cases Closed	63	104	54	221
Cease and Desist Orders	1	2	0	3
Administrative Civil Liability	1	1	0	2
Penalties Assessed	\$66,400	\$14,750	\$-	\$81,150
Enforcement Response % of violations with enforcement	5%	1%	0%	1%
Water Rights Compliance Rate	44%	63%	60%	61%

* The number of non reporting violations is estimated.

III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

A) Key 2008 Objectives

The Water Boards are currently concluding the update of the Strategic Plan to cover 2008-2012¹⁴. The update is proposed for adoption by the State Water Board at its September 2, 2008 meeting. The draft strategic plan update integrates enforcement strategies across the key environmental priorities identified in the plan. These priorities address the Water Boards core responsibilities to protect surface and groundwater and promote a sustainable water supply. The objectives and actions, including performance targets, that are enforcement related are excerpted below:

Objective 1.3. Take appropriate enforcement actions and innovative approaches as needed to protect and restore all surface waters.

Action 1.3.1. Reduce the backlog of facilities that are subject to mandatory minimum penalties by 50 percent by December 2009.

Action 1.3.2. The Water Boards will work collaboratively to pilot enforcement programs and other innovative approaches to protect and restore surface water quality, initially focusing on facilitating compliance with the regulatory programs for irrigated agriculture.

¹⁴ The Water Boards Strategic Plan will be available at <http://www.swrcb.ca.gov/>

Action 1.3.3. The Water Boards will pilot enforcement programs and other innovative approaches to protect and restore coastal and ocean water quality by implementing AB 258 "nurdles" pollution prevention law and strengthening enforcement response to spills and illegal discharges.

Action 1.3.4. The State Water Board will adopt by December 2008 an updated Water Quality Enforcement Policy that includes factors for ranking enforcement priorities, metrics to measure enforcement effectiveness, and processes whereby the State Water Board will exercise its water quality enforcement authority.

Objective 2.2. Identify strategies to ensure that communities that rely on groundwater contaminated by anthropogenic sources will have a reliable drinking water supply, which may include surface water replacement, in the future.

Action 2.2.3. Upon identification of discharges contributing to the contamination of groundwater relied on by these communities, take appropriate regulatory or enforcement action.

Objective 5.4. Create a portal by July 2009 for the public on the State Water Board's home page to access web-based water quality information for surface, ground, and coastal waters, and a web-based water quality report card, that will communicate to the public the quality of the State's waters, the performance of the Water Boards in protecting those waters, and other Water Board-related issues that affect the public.

Action 5.4.1. Considering stakeholder input, develop annual web-based reports on the effectiveness of Water Board programs, beginning with a report on compliance and enforcement activities by January 2009, which track performance measures that are established in performance plans, and allows the Water Boards to adjust priorities and strategies for the coming year.

Objective 6.1. Target consistency improvements in process and policy for Water Board enforcement activities to promote compliance.

Action 6.1.1. Adopt and implement, by October 2008, revisions to the Water Quality Enforcement Policy to, at a minimum, ensure consistent enforcement response, assessment of penalties for all Class 1 violations, and assessment of liability in excess of the economic gain obtained as a result of non-compliance. The policy will also establish a clear, consistent statewide approach to the prioritization of enforcement targets, based on threats and adverse impacts to beneficial uses, including the identification of Class I violations.

Action 6.1.2. Develop uniform hearing procedures for contested enforcement matters, and templates for enforcement activities, including but not limited to subpoenas, administrative discovery, and investigation reports, by October 2008.

Action 6.1.3. Complete re-organization/re-direction of staff to separate enforcement personnel from permitting personnel by December 2009, and instill internal process for review of draft WDRs and draft WDR waivers for enforceability beginning in September 2008.

Objective 7.1. Enhance professional development opportunities for Water Board employees to increase their knowledge, skills, and expertise.

Action 7.1.1. Through the Water Boards' Training Academy, assess training needs by December 2008, and develop and deliver courses and core curricula to meet those needs, beginning with enforcement and stormwater regulation by March 2009.

Objective 7.4. Leverage resources and expertise through innovative approaches and teams across Water Board programs and regions and through partnerships with governmental and non-governmental organizations, to enhance existing workforce capacity and field presence, and provide information to help target Water Board efforts.

Action 7.4.1. Develop partnerships with other agencies that have environmental, regulatory enforcement authority to address threats to water quality, beginning with a pilot enforcement program, in collaboration with the Department of Fish and Game, focused on stormwater concerns in the Los Angeles region by December 2008.

Action 7.4.4. Identify and use existing or new staff teams to integrate Water Board programs, resolve cross-program issues, and reduce program inconsistencies such as a water quality data team, enforcement coordination team and a water rights/water quality integrated decision-making team by December 2011.

B) Recommendations for Future Actions

These actions are more fully described in the recently completed Baseline Enforcement Report and are in addition to ongoing enforcement improvement efforts such as the proposed revisions to the Water Quality Enforcement Policy and implementation of the CIWQS review Panel recommendations. The Office of Enforcement is proceeding to implement these recommendations based upon the input of the State Water Board members at their May, 2008 meeting.

1) Create Procedural Consistency in Regional Water Board Enforcement Proceedings

To provide fair and consistent enforcement, formal enforcement actions should follow procedures which are consistent across the Water Boards. The Office of Enforcements' prosecuting attorneys should work with the advisory counsel in the Office of Chief Counsel to develop uniform hearing notices and other administrative enforcement procedures.

2) Prioritize Enforcement Actions to Address the Most Serious Threats to Water Quality

Regional Water Boards should engage in bimonthly enforcement priority discussions with the Office of Enforcement to evaluate priority cases for enforcement action. The priorities selected should be consistent with the Water Quality Enforcement Policy. The Regional Water Boards should review and track cases that are identified as priorities. All Class 1 Violations (as defined in the proposed Water Quality Enforcement Policy) should have formal enforcement actions initiated within one year of detection by Water Board staff.

3) Enhance Inspection and Enforcement Training

The Water Boards should develop minimum training requirements for compliance and enforcement staff. Each compliance and enforcement staff person should have an individual development plan that specifies required training elements. The training should be administered through the Water Boards'

Training Academy or Cal EPA's Enforcement Training Program. This training should also include information on CIWQS data entry procedures.

4) Increased Field Presence of Water Board Staff

Inspection frequencies should be specified and maintained for each regulated facility. Increased inspector field presence can be of great value in locating non-filers and illegal discharges.

5) Evaluate Opportunities for Citizen Enforcement of the Water Code

The Water Boards' data shows that a large percentage of detected violations do not have any enforcement action associated with them. If the Water Boards are unable to address all water quality violations because of a lack of enforcement resources, the Water Boards should evaluate whether citizens of the State of California should have the ability to bring actions to enforce the *Water Code* similar to citizen enforcement action provisions under the federal *Clean Water Act*.

6) Evaluate Establishing Minimum Penalties for Water Code Violations

The Water Boards should evaluate imposing minimum penalties, similar to *Health and Safety Code section 25299 and Water Code section 13350(e)(1)*, for the most serious water quality violations. Health and Safety Code section 25299 has been a significant factor in supporting enforcement cases and obtaining fines and penalties against non-complying owners and operators of UST systems. Adopting a minimum penalty regimen for other water quality violations would provide consistency in assessing monetary administrative and civil liabilities.

7) Create a Dedicated Enforcement Staff and Budget

The Water Boards should develop a consistent way of identifying the enforcement staff and budget for each region and at the State Water Board. The Water Boards' electronic time-keeping system should track the time and cost spent on enforcement matters, particularly those which go to formal enforcement actions. The Water Boards should seek authority to recover the reasonable costs of enforcement as an assessment of liability (in administrative or civil liability matters) in addition to any monetary civil liability imposed in the enforcement proceeding.

8) Increase the Use of the Attorney General's Office, District Attorneys, and City Attorneys in Enforcement Actions

The Water Boards' enforcement program relies on administrative enforcement activity. There are matters and violations which warrant referral to outside prosecuting agencies for the imposition of significant penalties, injunctive relief, and other actions. The Water Boards should better coordinate and communicate with these enforcement partners to ensure maximum deterrence. The Water Boards should evaluate whether additional legislative changes would aid in this effort.

9) Reduce the Backlog of Enforcement Cases by Targeting MMP-Related Violations for Enforcement Priority

Cases requiring MMPs continue to build up in the Water Board enforcement system. These cases have been designated as an enforcement priority by the Legislature. The Water Boards should initiate action to significantly and measurably reduce the backlog in 2008. The Water Boards should evaluate the effectiveness of MMPs in achieving compliance at regulated facilities.

10) Evaluate Updating the Statutory Penalty Limits to Address Inflation

The recent oil spill in the San Francisco Bay from the M/V Cosco Busan has highlighted that the authorized penalty amounts for the illegal discharge of oil and petroleum products into the state's waterways have not been updated since 1984. Cost of living indices suggest that the penalties should be adjusted by at least 100% to account for inflation. To maintain the deterrent impact of our water quality protection laws as intended, the Water Boards should evaluate the need and effects of adjusting the penalty provisions for both inflation and the environmental costs that result from these illegal discharges.

11) Develop and Implement Plans to Compel Participation in Key Water Board Regulatory Programs

As the Water Boards develop new initiatives and programs addressing emerging contaminant and pollution threats to water quality, it is essential for the success and integrity of these regulatory approaches to have full participation of the newly regulated entities. The Water Boards should develop plans, as a part of any new regulatory initiative or program, to target nonparticipants for early and well-publicized enforcement actions.

12) Develop a Uniform Tracking and Reporting Mechanism for Illegal Discharges That Do Not Fall Within One of the Current Core Regulatory Programs

The Water Boards should work with stakeholders to develop a consistent mechanism for recording these violations and tracking the enforcement response to the violations. Based on a baseline of verifiable information, the Water Boards can better determine the extent of the problem and develop more appropriate regulatory and enforcement responses.

13) Encourage Flexibility in the Allocation of Resources to Target Priority Needs

Encourage flexibility in the allocation of resources within the Regional Water Boards and at the State Water Board to focus on specific regional and statewide issues and priorities, recognizing that a shift in resources away from a program area will result in a corresponding reduction in the level of effort for that area. Resource allocation modifications must be tracked to account for changing priorities.

Appendix A: Summary of Core Regulatory Programs 2007 Metrics:

PROGRAM 2007 METRICS	NPDES WASTEWATER	NPDES STORMWATER	WDR	LAND DISPOSAL	401 WETLANDS
REGULATED UNIVERSE	2,077	29,780	6,530	772	981
Number of Staff (PY) 07/08	99.8	87.3	77.9	70.8	16
BUDGETED 07/08	\$17,653,560	\$14,396,153	\$14,019,913	\$12,224,139	\$3,052,777
Enforcement Resources (PY)	40	47	47	38	2
Permits/PY	21	341	84	11	61
Permits/Enforcement PY	52	634	139	20	491
Monitoring Reports	12,098	10,263	19,149	2,000	-
Inspections	593	919	620	444	-
Percentage of Facilities Inspected	29%	3%	15%*	58%	0%
Facilities With Violations	528	956	614	121	16
Facilities With Priority or Chronic Noncompliance Problems	184	200	38	2	-
Total Number of Violations	4,185	1,190	4,059	224	16
Priority Violations	1,168	289	256	2	-
Enforcement Actions	223	1,203	320	46	23
Formal Actions	91	48	69	14	6
Informal Actions	132	1,155	251	32	17
Number of Administrative Civil Liability Actions	59	32	15	0	4
Penalties Assessed	\$5,846,630	\$3,234,004	\$7,717,787	\$0	\$862,161
Received Liabilities	\$1,633,460	\$1,751,785	\$750,995	\$0	\$61,411
SEP+Compliance Projects Completed	\$1,204,170	\$427,487	\$154,505	\$0	\$0
Enforcement Response. % of Violations with Enforcement	54%	92%	51%	32%	100%
COMPLIANCE RATE (Facilities with violations/regulated universe)	75%	97%	85%*	84%	98%

* Does not include Timber Harvest, Dairies and Water Use Recycling facilities

LIST OF ACRONYMS

Acronym	Full Name
ACL	Administrative Civil Liability
CAA	State Water Pollution Cleanup and Abatement Account
Cal EPA	California Environmental Protection Agency
CAFO	Concentrated Animal Feeding Operations
CAO	Cleanup and Abatement Order
CDO	Cease and Desist Order
CIWMB	California Integrated Waste Management Board
CIWQS	California Integrated Water Quality System
CSD	Community Services District
CTR	California Toxics Rule
CWA	Clean Water Act
DA	District Attorney
EO	Executive Officer
ICC	International Code Council
LID	Low Impact Development
MNP	Mandatory Minimum Penalties
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
NPS	Non-Point Source
NOV	Notice of Violation
O&M	Operations & Maintenance
OE or Office	Office of Enforcement
PCS	Permit Compliance System
PY	Personnel Year
POTW	Publicly Owned Treatment Works
PUD	Public Utilities District
QA/QC	Quality Assurance/Quality Control
RCRA	Federal Resource, Conservation, and Recovery Act
SEP	Supplemental Environmental Project
SIC	Standard Industrial Classification
SIU	Special Investigations Unit
SMCRA	Surface Mining Control and Reclamation Act
SMR	Self-Monitoring Report
SSMP	Sewer System Management Plan
SSO	Sanitary Sewer Overflow
TSO	Time Schedule Order
UST	Underground Storage Tanks
Water Boards	State and Regional Water Boards
WDR	Waste Discharge Requirements
WQBEL	Water Quality-Based Limitation
WWTP	Wastewater Treatment Plant

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OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

I. EXECUTIVE SUMMARY

Much of the scientific expertise in state government for the assessment of health risks posed by chemical contaminants in the environment is concentrated in The Office of Environmental Health Hazard Assessment (OEHHA). When the California Environmental Protection Agency (Cal/EPA) was established in 1991, OEHHA was deliberately created as a separate and distinct entity from the other five Cal/EPA boards and departments to provide adequate separation between the scientific work of “risk assessment” and the regulatory (“risk management”) activities of the other boards and departments, which must balance other considerations.

The Cal/EPA boards and departments, the Department of Public Health (DPH) and other agencies use OEHHA’s scientific assessments in developing policies and regulatory strategies to protect the health of Californians. These assessments help ensure that state regulations and policies focus on the most significant health threats, which in turn helps ensure that precious resources devoted to public health protection are expended in the most effective manner.

OEHHA’s assessments form the scientific basis for California’s drinking water standards, ambient air quality standards, the identification of toxic air contaminants, and the placement of substances on the state’s Proposition 65¹⁵ list of chemicals known to cause cancer, birth defects and other reproductive harm. OEHHA also plays a key role in the registration and regulation of pesticides, provides guidance to other agencies in the assessment of urban “brownfields” and other contaminated sites, issues advisories concerning harmful contaminants in sport fish, and is engaged in several activities to better assess risks to children’s health from environmental contaminants. OEHHA is also actively involved in emerging new scientific programs such as the California Green Chemistry Initiative, the California Biomonitoring Program, and issues concerning Environmental Justice, especially those related to the cumulative impacts of environmental contaminants and application of the precautionary approach to environmental programs and decision-making. In addition, OEHHA is tasked with developing and maintaining a system of environmental indicators on behalf of Cal/EPA; this task, as specified in legislation, applies only to the extent that funding is appropriated by the Legislature for this purpose.¹⁶ OEHHA is currently developing indicators for Cal/EPA related to global warming and climate change.

OEHHA has no enforcement authority in any of its program areas. Instead, the Office provides scientific support and expertise for those governmental agencies charged with enforcing California’s environmental laws. This report discusses OEHHA’s work as the lead agency for implementation of Proposition 65. This unique law, adopted by an overwhelming majority of California voters in 1986, provides for the technical and scientific work on the program to be done by a “lead agency” designated by the Governor. OEHHA has been designated by Executive Order to be the “lead agency.” Enforcement of the law is accomplished through a combination of civil enforcement actions brought in the name of the People by the Attorney General’s Office or local prosecutors and private citizen suits. OEHHA has no enforcement authority for Proposition 65 and does not oversee or direct other agencies’ enforcement activities. The Attorney General’s Office has independent authority to enforce the requirements of Proposition 65 and also general oversight authority over private enforcement action

¹⁵ The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5, hereafter referred to as Proposition 65 or the Act.

¹⁶ Public Resources Code section 71081.

brought in the public interest. The Attorney General maintains a website with information on Proposition 65, including enforcement information.

A) General Overview of Proposition 65

Proposition 65's scope is limited to chemicals that are "known to the state" to cause cancer, birth defects or other reproductive harm. It is a self-executing law that has two main components. First, it prohibits the discharge of listed chemicals to sources of drinking water and second, it requires that a warning is provided prior to exposing a person to a listed chemical.

The California Attorney General's Office, and any district attorney or city attorney (for cities whose population exceeds 750,000), may enforce Proposition 65. In addition, any individual acting in the public interest may enforce Proposition 65 by filing a civil lawsuit against a business alleged to be in violation of this law. Civil penalties for violating Proposition 65 by failing to provide notices or for discharging listed chemicals to sources of drinking water can be as high as \$2,500 per violation per day, though in many private enforcement cases the defendants do not pay any penalties at all. The vast majority of all cases brought under Proposition 65 are for violations of the warning requirements of the Act, most result in injunctive relief (i.e. reformulation of products to avoid exposure or provision of a warning on or near the product or source of exposure.)

The Attorney General's Office maintains a web-based reporting procedure to collect information on private enforcement of the law. Since 2002, they have also produced annual reports on settlements under Proposition 65. These are available at: <http://ag.ca.gov/prop65/index.htm>. In the most recent report for calendar year 2007, there were 156 settlements resulting in total payment of \$11,846,737. About twenty percent of that total was civil penalties. Seventy-five percent of all penalty revenue is deposited in a special fund, subject to appropriation by the Legislature, for support of OEHHA's Proposition 65 related activities. OEHHA currently receives about \$672,000 annually or about 19% of the program costs, the General Fund supports the balance of the program.

Since it was passed in 1986, Proposition 65 has provided Californians with information they can use to reduce their exposures to listed chemicals that may not have been adequately controlled under other State or federal laws. This law has also increased public awareness about the adverse effects of exposures to listed chemicals. For example, Proposition 65 has resulted in greater awareness of the dangers of alcoholic beverage consumption during pregnancy. Alcohol consumption warnings are perhaps the most visible health warnings issued as a result of Proposition 65.

Proposition 65's warning requirement has provided an incentive for manufacturers to remove listed chemicals from their products. For example, trichloroethylene, which causes cancer, is no longer used in most correction fluids; reformulated paint strippers do not contain the carcinogen methylene chloride; and toluene, which causes birth defects or other reproductive harm, has been removed from many nail care products. In addition, a Proposition 65 enforcement action prompted manufacturers to decrease the lead content in ceramic tableware and wineries to eliminate the use of lead-containing foil caps on wine bottles.

Proposition 65 has also succeeded in spurring significant reductions in California of air emissions of listed chemicals, such as ethylene oxide, hexavalent chromium, and chloroform.

Although Proposition 65 has benefited Californians, it has come at a cost for companies doing business in the state. They have incurred expenses to test products, develop alternatives to listed chemicals,

reduce discharges, provide warnings, and otherwise comply with this law. Recognizing that compliance with Proposition 65 comes at a price, OEHHA is working to make the law's regulatory requirements as clear as possible and ensure that chemicals are listed in accordance with rigorous science in an open public process.

B) The Role of OEHHA in Proposition 65

There are currently over 780 chemicals on the Proposition 65 list. The list is available at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html and in Title 22, Cal. Code of Regulations, section 12000. There are four principal ways for a chemical to be added to the Proposition 65 list. A chemical can be listed if either of two independent committees of scientists and health professionals finds that the chemical has been clearly shown to cause cancer or birth defects or other reproductive harm. These two committees—the Carcinogen Identification Committee (CIC) and the Developmental and Reproductive Toxicant (DART) Identification Committee—are part of OEHHA's Science Advisory Board. The committee members are appointed by the Governor and are designated as the "State's Qualified Experts" for evaluating chemicals under Proposition 65. When determining whether a chemical should be placed on the list, the committees base their decisions on the most current scientific information available. OEHHA staff scientists compile all relevant scientific evidence on various chemicals for the committees to review. The committees also consider comments from the public before making their decisions.

A second way for a chemical to be listed is if an organization designated as an "authoritative body" by the CIC or DART Identification Committee has identified it as causing cancer or birth defects or other reproductive harm. The following organizations have been designated as authoritative bodies: the U.S. Environmental Protection Agency, U.S. Food and Drug Administration (U.S. FDA), National Institute for Occupational Safety and Health, National Toxicology Program, and International Agency for Research on Cancer.

A third way for a chemical to be listed is if an agency of the state or federal government requires that it be labeled or identified as causing cancer or birth defects or other reproductive harm. Most chemicals listed in this manner are prescription drugs that are required by the U.S. FDA to contain warnings relating to cancer or birth defects or other reproductive harm.

A fourth way requires the listing of chemicals meeting certain scientific criteria and identified in the California Labor Code as causing cancer or birth defects or other reproductive harm. This method established the initial chemical list following voter approval of Proposition 65 in 1986 and continues to be used as a basis for listing as appropriate.

Once a chemical is listed under Proposition 65 by one of these four methods, the discharge and reporting requirements become effective following a statutory grace period. For discharges of listed chemicals to sources of drinking water, the prohibition becomes effective 20 months after the chemical is listed. The warning requirements of the Act apply 12 months following listing of the chemical.

OEHHA provides compliance assistance for businesses subject to the Act in several ways. OEHHA adopts "safe harbor" levels for listed chemicals. These are levels below which a discharge is not considered "significant" for purposes of the Act and below which no warning is required. OEHHA has established "safe harbor" levels (called "No Significant Risk Levels" or NSRLs for carcinogens and "Maximum Allowable Dose Levels" or MADLs for reproductive toxins) for 298 of the chemicals listed under Proposition 65, and continues to adopt them as time and resources allow.

OEHHA provides technical guidance concerning the application of the law and implementing regulations to specific factual scenarios through the issuance of “Safe Use Determinations,” Interpretive Guidance and informational letters. From time to time, OEHHA scientist are asked to consult with the Attorney General’s Office concerning scientific issues that may arise in enforcement actions under the law and OEHHA scientists have provided testimony in some cases.

OEHHA is also involved in an ongoing project to update and improve its Proposition 65 regulations. This includes adopting new regulations addressing emerging issues as well as amending or repealing existing regulations.

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