

THE OFFICE OF THE SECRETARY

This 2008 Environmental Enforcement Report by the Office of the Secretary reflects the statutory enforcement activities for which it is responsible. Readers should know that most of the activities of the Office of the Secretary involve assisting and coordinating with other agencies as opposed to the Office directly administering the enforcement programs. These other agencies are the primary program enforcement authorities. The Office of the Secretary does directly administer the “Unified Program,” which enforces only six of the State’s hazardous material and hazardous waste program elements. The report on the Unified Program is located in the Unified Program chapter of this 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.

Major Program Highlights

The following highlight some of the more important enforcement improvement activities that were accomplished by the Office of the Secretary in 2008:

- Produced an annual report of statewide environmental enforcement for 2007.
- Established an electronic information exchange node with U.S. EPA. Cal/EPA is currently transferring data from its information systems to U.S. EPA electronically for the Hazardous Waste program.
- Developed and piloted a new “One Day” enforcement class.
- Expanded on-line learning capabilities.
- Provided legal review to ensure the effective enforcement of the Global Warming Solutions Act of 2006 (AB 32 (2006); Health and Safety Code section 38500 et seq.).

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 integrated 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 Standards and the Environmental Data Exchange committees. Reports on their progress and on-going work are included below.

How The Agency Will Use This Information

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

II. THE ENFORCEMENT PROGRAM IN THE OFFICE OF THE SECRETARY

A) Overview

In 2008, staff within the Legal Unit of 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.
- The Special Counsel to the Secretary.
- The Assistant Secretary for the Unified Program and Regulatory Affairs, supported by a staff of nine.
- Three support staff (Executive Assistant, Staff Services Analyst and an Associate Government Program Analyst) whose duties include enforcement and support of the general legal office function.

As described in this report, the Office of the Secretary's Enforcement Program relies heavily on staff from the Cal/EPA Boards, Departments and Offices (Cal/EPA programs) 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:

- 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.
- Assisting local environmental enforcement task forces to facilitate communication between regulators and prosecutors.
- Enforcement policy review and coordination of state and regional efforts to ensure enforceability of the Global Warming Solutions Act of 2006 (AB 32 (2006); Health and Safety Code section 38500 et seq.).
- Oversight of the Unified Program to assure it is implemented in a coordinated, consolidated and consistent manner statewide.

- Oversight of Cal/EPA's Emergency Response activities to assure Cal/EPA's responses to emergencies are coordinated and protective of public health and the environment.

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 2008. Each Team's mission, accomplishments and planned 2009 efforts are described below.

Enforcement Steering Committee

The Enforcement 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.

- Matt Bogoshian, Chair, Deputy Secretary of Law Enforcement and Counsel, Cal/EPA
- James Ryden, Chief, Enforcement Division, Air Resources Board
- Gale Filter, Deputy Director, Enforcement and Emergency Response Division, Department of Toxic Substances Control
- Ted Rauh, Program Director, Waste Compliance and Mitigation Program, California Integrated Waste Management Board
- Reed Sato, Director, Office of Enforcement, State Water Resources Control Board
- Nan Gorder, Chief, Enforcement Branch, California Department of Pesticide Regulation

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 to more effectively and efficiently meet the state's environmental goals.

Accomplishments

In 2008, the Enforcement Steering Committee worked with US EPA on various issues related to better coordination of enforcement activity and with California's county prosecutors, represented by the California District Attorneys Association, to improve California's environmental crimes enforcement activities.

Calendar Year 2009 Mission

This Enforcement Steering Committee will continue to plan and manage the continuing improvement and coordination of California's state, regional and local environmental enforcement programs.

Data Standards Steering Committee

Mission

The mission of the Data Standards Steering Committee (DSSC) is to establish and maintain a process for environmental programs to provide public access to environmental data maintained by those programs. This committee will coordinate the continuing development of data standards across Cal/EPA's programs and establish a data dictionary management process that will standardize environmental data in California. The committee will work with Cal/EPA programs and local government partners to implement the standards and process.

A significant change in direction was approved when the DSSC proposed and adopted a Data Registry/Data Exchange Template concept to support future development of a Master Data Dictionary for environmental protection programs. The Data Registry will contain all the data elements of the major environmental data systems currently maintained by Cal/EPA programs.

Throughout 2007 and 2008, there has been need for increased participation by Cal/EPA program staff in this work. Increased participation is needed to maintain momentum toward the development of a common Environmental Data Dictionary.

Accomplishments

- The DSSC work plan for 2008 was reviewed and updated.
- The DSSC spent a major portion of the year developing processes and designs in support of the Master Data Dictionary. With the refocusing of direction to the development of the Data Registry, those processes and designs will need to be reviewed and updated.
- CIWMB proposed to develop the Master Data Dictionary as long as at least two other Cal/EPA Boards, Departments and Offices committed resources to support the effort. DTSC committed to support the effort. No other Cal/EPA Boards, Departments and Offices offered support. For the development of the Data Registry, the decision was made to use contractor support for this development effort.
- The Agency Information Officer (AIO), Gary Arstein-Kerslake, was added as a standing member of the DSSC to help improve program coordination.
- DSSC Leadership. In response to a lack of volunteers for the Chairperson and Vice-Chairperson roles, the DSSC changed from electing to rotating leadership within the Cal/EPA programs. The term for Chair and the Vice-Chair will be 6 months instead of 1 year.

Calendar Year 2009 Objectives

- Review and update the work plan for 2009.
- The DSSC will review all previous deliverables and make any necessary changes required by the new Data Registry/Data Exchange Template concept.
- Initiate development of the Data Registry.
- Finalize process for mapping EDE data elements that will be exchanged between programs.

Environmental Data Exchange Steering Committee

Mission

The mission of the Environmental Data Exchange (EDE) project is to create a web tool with which eighteen enforcement and other related databases from five Cal/EPA Boards, Departments, and Offices can be viewed via the Internet. The project will implement data standards and business rules across Cal/EPA programs' facilities databases to ensure consistency of data and ease of cross-organizational exchanges. Further, the Environmental Data Exchange project is to determine a method of identifying regulated facilities and sites and exchange information between Cal/EPA programs in order to promote cross-media and multi-agency enforcement capabilities.

Accomplishments

- Received U.S. EPA Grant to contract with computer programmer to develop a portion of the computer code needed for the Environmental Data Exchange project.
- Developed Proof of Concept Site to demonstrate differential security for the Environmental Data Exchange project. Differential security will allow the release of publicly available information, while protecting trade secret or sensitive information as required by law.

Calendar Year 2009 Objectives

- Adopt protocol for computer data exchange as determined by the Data Standards Steering Committee.
- Secure a contract with a computer programmer to develop a portion of the computer code needed for the Environmental Data Exchange project.
- Secure from Cal/EPA programs' management the approval for their program and Information Technology (IT) staff to develop the Environmental Data Exchange project.
- Cal/EPA program staff will identify differential security levels, and the information associated with each of those levels.
- Cal/EPA program IT staff will determine resources needed to implement differential security and any other remaining IT tasks needed to complete the project and begin to complete those tasks, with an expected completion of EDE in late 2010.

Enforcement Performance Measures Team

Mission

To develop performance measures for the activities of Cal/EPA programs and those of our local and regional partners to measure program achievement and to develop a comprehensive annual report of environmental enforcement for all Cal/EPA programs.

Accomplishments

With the guidance of the Enforcement Performance Measures Team, our Cal/EPA programs, and our local and regional partners, Cal/EPA was able to produce the 2007 Cal/EPA Environmental Enforcement Report by November 2008. The 2007 report is the foundation for this and future enforcement reports.

Calendar Year 2009 Objectives

Begin the early preparation of the 2008 Cal/EPA Environmental Enforcement Report in order to produce and post the report by mid-year.

Because of the efforts required to increase future report's planning potential and utilization, a new "Enforcement Report Team" will be created that will continue the progress gained from preparation of the 2007 and 2008 reports.

Identify a new team leader for the Enforcement Performance Measures Team due to the upcoming re-retirement of its team leader.

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. A staff survey and report, conducted by the prior team in 2006, developed recommendations for addressing the problems reported in the survey. One of the fundamental recommendations from the survey was that a cross-program steering committee be established, and that this committee include representatives from both enforcement and permitting programs.

Mission

Plan and manage the continuing improvement and coordination of California's state permitting programs, to ensure that permits are clear, consistent and enforceable.

Accomplishments

During 2008, members for the steering committee were solicited from the Cal/EPA programs. The Enforceable Permits Steering Committee was activated, and the first meeting was held in July of 2008. In subsequent meetings and conference calls, members reviewed the issues from the first team survey, and validated that these were still of concern. These issues were synthesized into areas for future action.

Calendar Year 2009 Objectives

- Consolidate workplan issues into an action plan.
- Identify criteria regarding tracking of permit related issues and assess whether tracking systems that exist which could be modified to capture issues related to enforceability of permits.
- Draft a best management practices document that addresses survey issues regarding enforceability of permits and that provides recommendations to Cal/EPA Boards, Departments and Offices on these issues.
- Assess availability of training for staff regarding topics that would strengthen enforceability of permits.

Enforcement Training Steering Committee

Mission

The Enforcement Training Steering Committee is to provide training and outreach to field personnel of state and local regulatory agencies, investigators and attorneys across environmental programs to ensure consistent, effective and coordinated enforcement.

Accomplishments

The Cal/EPA Enforcement Training Team consisted of one representative from each Cal/EPA Board and Department and the Assistant General Counsel from the Office of the Secretary. The

Team was chaired by the Chief of the ARB's Training and Compliance Assistance Branch. The team prepared a report on their activities for 2008 that is available from the Office of the Secretary.

Although a directive indicated team members were to work on enforcement training full time, the amount of time spent on this assignment varied as the requirement was modified to assist the Cal/EPA Boards and Departments in meeting other workload and program requirements. The team has been able to offer substantial support to existing training efforts, such as the Cal/EPA Symposium and Basic Inspector Academy, the development of new program specific training, and the development and delivery of new cross program enforcement training, as described below. A substantial hindrance to getting training performed in 2008 was due to the protracted budget process for fiscal 2008-2009 that severely limited or stopped travel by the trainers from July 1 through most of September.

The Cal/EPA Enforcement Training Team provided support staff, outreach and speakers for the Cal/EPA Basic Inspector Academy (BIA). The BIA 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 possible violations in other programs 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 2008, the Academy was offered in Sacramento (2 sessions), San Diego and Ventura; 91 people completed the BIA course in 2008.

In addition to the above, Team members:

- Developed a new "One Day" enforcement class and piloted it in San Diego and Kelseyville, Lake County. Each session had approximately 60 attendees, the agenda included search and seizure issues, report writing, elements and evidence to support a violation and case development and referrals discussion by local prosecutors.
- Revised the "Evidence and Sample Collection" 1 day course, then delivered the course to Task Force attendees in Riverside and Eureka in the fall of 2008.
- Developed a new 2 hour course "Introduction to Investigation" which was presented at the 2009 California Unified Program Agency annual conference.
- Assisted with support of the 2 week course "Advanced Crime Environmental Enforcement" offered through a partnership of the Federal Law Enforcement Training Center (FLETC) and California prosecutors held in San Luis Obispo at the California State Training Institute (CSTI).
- Acted as facilitators for the practical exercises at Cal/EPA Environmental Enforcement Symposium.

Other Cal/EPA Enforcement Training Team accomplishments are listed in their annual report.

Calendar Year 2009 Objectives

- Deliver seven sessions of the BIA and review and update course materials.
- Deliver 5 "One Day" enforcement training classes.
- Continue efforts in outreach and coordination of training classes for various task forces.

- Continued work with the Environmental Enforcement Training Coordination Forum to improve coordination of training efforts.
- Increase awareness and use of online training such as webcasts, webinars and web based training.
- Increase coordination with US EPA on national training issues.

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 Boards, Departments and Offices. This project resulted in a web-based system that provides a consistent, single point of contact for the public via Internet access through the various Cal/EPA web pages. The primary point of contact is an online complaint form that is used to collect information about environmental complaints and/or violations. The system is being designed as a tool used to relay complaint information directly to the appropriate Cal/EPA Boards, Departments and Offices for action, coordination with local and regional government agencies, and further follow-up.

Citizen complaints are a critical source of information about potential non-compliance with environmental laws. Program managers have found that citizen complaints are usually made to a specific Cal/EPA Board, Department and Office, but may also have cross-media environmental impacts. In order to provide adequate response to environmental complaints, a coordinated approach is needed to address the possible cross-media responses as well as assure that complaints are investigated and prosecuted properly.

Accomplishments

Cal/EPA's Complaints System programmer, working within DTSC, developed a set of step-by-step online forms to move the complaint through the response process from Cal/EPA Boards, Departments and Offices' staff assignments through referral to external agency to close out. The Steering Committee met with Complaint Coordinators from each Cal/EPA Board, Department and Office to establish overall complaint handling procedures and to identify their specific business rules, limitations or requirements impacting their ability to handle complaints within the online system. Using the information gathered, the online forms were modified to adapt individually to their needs while still allowing uniform coordinated response to complaints. Access permission levels for user types (Central Contact, Supervisor and Staff Person) needed to apply secured access to all pages were also defined.

A Search Complaints feature was developed to allow complaints staff to generate ad-hoc reports from the complaint data by searching/sorting on any of the data fields collected on the Cal/EPA Environmental Complaint Form. This feature is currently disabled until issues about unauthorized staff potentially viewing sensitive or confidential information are resolved. It is expected that implementation of the secured access will address these concerns.

A "Notify Other BDOs" page was developed to facilitate easy cross-Cal/EPA Boards, Departments and Offices coordination. The page allows any Cal/EPA Board, Department or Office to email appropriate staff at any or all Cal/EPA Boards, Departments and Offices with relevant information about a complaint. The page will be enhanced with the ability to attach and send electronic copies of relevant documents.

Calendar Year 2009 Objectives

Upgrade versions of the internal complaints tracking and maintenance pages. Complete the development phase and place into the testing phase.

2) Enforcement Training for Regulators, Investigators and Prosecutors

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 Enforcement Training Steering Committee, 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 located 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.

Environmental Enforcement Training Coordination Forum

Forum members consist of: The CUPA Forum Board, California Hazardous Materials Investigators Association, Cal/EPA, Western States Project, EPA National Environmental Training Institute, California District Attorney Association, California State Parks, POST, and California Specialized Training Institute (part of the Office of Emergency Services). The mission of this Forum is to protect human health and the environment through coordinated, consolidated, and consistent environmental enforcement training. The Forum is chaired by a member of the Cal/EPA Enforcement Training Team and meets quarterly.

During 2008, the forum developed goals, a coordinated training calendar, reviewed online training delivery options and reviewed the Cal/EPA On-Line Inspector Fundamental Course.

The Cal/EPA Basic Inspector Academy

See description and details above.

The Cal/EPA 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 2008 included *Enforcement Issues on and Near Tribal Lands, Evidence Collection, Practical Use of GIS, and Enforcement and Disaster Recovery*. 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 eighty-one (181) individuals attended the Symposium in 2008, 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 90 (77 scholarships and approximately 13 speakers) 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 the Certified Unified Program Agencies (CUPAs). The annual training conference has over 1,200 attendees and its goal is to assure that Unified Program Regulators are trained to maintain their professional and technical skills.

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 2008, 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 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

A new “One Day” enforcement class was developed and piloted in San Diego and Kelseyville. (See details in the Enforcement Initiative, Enforcement Training Team section above).

Cal/EPA partners with the Western States Project (WSP), a US EPA funded non-profit, to provide the following training for state and local environmental enforcement:

- “Introduction to Environmental Enforcement” 3-day course (50 attendees)
- “Introduction to Environmental Criminal Investigation” 3-day course (36 attendees) and the majority received scholarships from Cal/EPA or WSP.
- “Effective Interviewing for Inspectors” 1-day class (132 attendees)

Cal/EPA also assists WSP with administering scholarships and providing some Cal/EPA scholarships to attend Western States training. In 2008, Cal/EPA’s Enforcement Training Committee provided support for the “Effective Interviewing for Inspectors” course that entailed registration, site selection, and preparation and role playing in the practical exercise portion of the training. For more information on the Western States Project, see <http://www.regionalassociations.org/default.aspx>.

3) The Environmental Circuit Prosecutor Project

The Environmental Circuit Prosecutor Project (ECP) 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 2008, the ECPP provided service to the following counties through direct filings or as a result of a multi-jurisdictional case: Alpine, Amador, Calaveras, Colusa, El Dorado, Glenn, Humboldt, Inyo, Kings, Lake, Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Nevada, San Benito, Shasta, Stanislaus, Sutter, Tehama, Tuolumne, Yolo and Yuba.

In 2008, the ECPP opened far fewer civil and criminal environmental cases than in previous years. A single multi-jurisdictional case accounted for the majority of fines/penalties recovered. The decline in cases accepted by this project is largely attributable to unstable funding, reduction in staff and staff turnover. Obtaining funding support from all the agencies whose cases are handled by the Project remains a challenge.

Environmental Circuit Prosecutor Project

Year	Cases Opened	Cases Closed	Fines / Penalties	Jail Time	Probation
2006	176	141	\$1,016,626	900 days	9 years
2007	173	68	\$1,205,470	80 days	27 years
2008	50	39	\$6,964,400	0 days	8.5 years

For more information on the Environmental Circuit Prosecutor Project, see <http://www.calepa.ca.gov/Enforcement/CircuitPros/>.

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

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

The lowest amount of grant funds distributed from the Account occurred in 2008 (see chart below). The sources of funds were the result of cases settled by the Department of Toxic Substances Control and local District Attorneys. The Account has continued to receive fewer contributions than in past years as follows:

Year	Penal Code § 14300 Funding
2006	\$ 654,081
2007	\$ 503,562
2008	\$ 138,260

Each year these funds are apportioned as required by statute:

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

The Cal/EPA portion in the Account was awarded in grants totaling \$34,564.88 as follows:

- The California District Attorneys Association received \$14,564.88 in additional funds to support the Circuit Prosecutor Project.
- City of San Bernardino received \$20,000 for code enforcement related illegal dumping work for overtime for officers.

For more information on the Penal Code section 14300 Account, see:

<http://www.calepa.ca.gov/Enforcement/Grants/14300.htm>

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) Enforcement and Emergency Response Program has staff located in Sacramento, Chatsworth, Cypress, and Berkeley. Amongst its many duties, 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.

Many counties in California are 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 within

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 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. SEI has surveillance equipment and its staff is utilized 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.

The Department of Toxic Substances Control also provides enforcement assistance through its Office of Criminal Investigations (OCI). Both OCI and ARB's SEI 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.

7) Case Coordination and Referral

During 2008, 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/>.

8) New Enforcement Policy Development and Review

a. Climate Change Enforcement Policy Review

During 2008, the Office of the Secretary began working on market enforcement implementation issues of AB 32's cap and trade program. As a result of that effort the Office of the Secretary also works on these issues within WCI, the Western Climate Initiative. WCI is presently a collaboration of seven Western American states and four Canadian provinces that are committed to reducing greenhouse gas emission within their respective jurisdictions.

b. Other Enforcement Policy Reviews

The Office of the Secretary consistently reviews other significant new enforcement policies that come to its attention.

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 Cal/EPA Boards, Departments and Offices, and regional and local agencies. The Office of the Secretary has led efforts to improve the data generated by these programs, see the Enforcement Initiative section above and the Unified Program chapter in this 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 federal and state law, program structure, 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. Additionally, there is a need for improved coordination between 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 2009

- Continue the work on infrastructure improvements tasked to Enforcement Initiative Teams and Committees.
- Produce a comprehensive Report on Environmental Enforcement for the year 2008.
- Continue support for enforcement training for regulators, investigators and prosecutors.
- 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 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 section 38500 et seq.).
- Work to coordinate the various providers of environmental enforcement training.
- Produce an annual comprehensive Report on Environmental Enforcement.

###

This Page Intentionally Left Blank.