

2016

Environmental Compliance and Enforcement Report



CalEPA
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*Office of the Secretary
California Air Resources Board
State Water Resources Control Board
Department of Toxic Substances Control
Department of Pesticide Regulation
Department of Resources Recycling and Recovery
Office of Environmental Health Hazard Assessment*

Edmund G. Brown Jr.
Governor

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Secretary for Environmental Protection



The mission of the California Environmental Protection Agency is to restore, protect, and enhance the environment to ensure public health, environmental quality, and economic vitality.

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This report provides agency-wide summary information on environmental enforcement and compliance programs for 2016. It highlights major program priorities, provides examples of enforcement cases, and summarizes cross-media enforcement and training efforts. This report also provides links to in-depth enforcement reports available on each program's website.

Cross-Media Enforcement & Environmental Justice



In California, the boards and departments within the California Environmental Protection Agency (CalEPA) enforce environmental laws that regulate air and water pollution, toxic substances, the use of pesticides, and waste recycling and reduction. The Office of the Secretary of CalEPA is responsible for ensuring that this enforcement work is consistent, effective and coordinated across all programs. To do this, CalEPA manages a cross-media enforcement training program, coordinates a steering committee focused on multimedia environmental enforcement, runs a task force designed to promote environmental regulatory compliance in disadvantaged communities, and administers a grant program that provides funds to train environmental regulators and prosecutors. This report describes these efforts, and it compiles data from the 2016 calendar year to provide an overview of the enforcement activities within CalEPA. For information about ongoing CalEPA enforcement activities, please see the websites of the boards, departments, and office referenced in this report.

Cross-Media Enforcement Training

CalEPA and its boards and departments provided training during 2016 to environmental inspectors from many environmental programs at the state and local level, including air, water, pesticide, hazardous waste, solid waste, and environmental health programs.

CalEPA and its boards and departments trained 238 inspectors at nine Basic Inspector Academies held across the state. The Basic Inspector Academy is a four-day class that provides environmental agency inspectors with

the core knowledge and skills that are necessary to perform and document quality environmental inspections.

CalEPA also provided an online fundamental inspection course to 629 inspectors. The fundamental inspection course provides an overview of CalEPA boards and departments and local environmental agencies, environmental law, environmental science, and basic field health and safety.

FIGURE 1: INSPECTORS TRAINED BY THE BASIC INSPECTOR ACADEMY IN 2016



CalEPA's Environmental Justice Task Force

To more fully integrate environmental justice considerations into cross media enforcement of environmental laws, CalEPA formed the *Environmental Justice Task Force* (EJ Task Force). The EJ Task Force is made up of the boards, departments, and office within CalEPA, along with federal, state, and local partner agencies that have environmental enforcement programs. Consistent with CalEPA's environmental justice policies and its Intra Agency Environmental Justice Strategy, the EJ Task Force's goals are:

- to create opportunities for disadvantaged communities to provide input regarding local environmental problems,
- to integrate that input into the enforcement work of the agencies, and
- to promote interagency coordination to ensure that pollution burdens in disadvantaged communities from multiple sources are addressed comprehensively.



One of the items of jewelry contaminated with lead discovered by DTSC as a part of the Oakland initiative.

The EJ Task Force completed an enforcement and compliance initiative in Fresno in 2014 and in Boyle Heights and Pacoima in Los Angeles in 2015. Beginning in 2016, the EJ Task Force conducted an Oakland initiative, focusing on two neighborhoods in East and West Oakland. Highlights of the Oakland initiative include the following:

- Department of Toxic Substances Control (DTSC) inspected discount stores in Oakland that led to the discovery and confiscation of *118 styles of jewelry* that contained dangerous levels of lead or cadmium. DTSC inspected fifteen additional suppliers in Los Angeles as a result of this discovery and it continues to investigate this serious issue.

- California Air Resources Board (CARB), along with the Bay Area Air Quality Management District and UC Davis conducted a state of the art community level air monitoring study in East Oakland. CARB will continue to work with the Air District to address the odor issues impacting the community and is committed to keeping the community informed about its ongoing work.
- *DTSC issued an endangerment order* at a closed electroplating facility, ED Coat, Inc., in West Oakland that required the owners to prevent the release of hazardous chemicals found at the site, including cyanide, chromium, cadmium, hydrochloric acid, and sulfuric acid. The Alameda County District Attorney's Environmental Protection Division filed fifteen felony charges against the owner and operator of the same facility based on numerous crimes relating to its serious mishandling of hazardous waste which placed the public and the environment at risk. Since the endangerment order was issued, DTSC has performed limited removal actions at the site totaling \$25,000 that involved pumping large quantities of liquid and sludge containing metals and cyanide from a floor sump at the facility. U.S. EPA has secured an additional \$1 million in funding to perform additional removal actions at the facility.



A facility in Oakland with storm water violations identified by the San Francisco Bay Area Regional Water Quality Control Board.

- CalRecycle, Alameda County Department of Environmental Health, San Francisco Bay Area Regional Water Quality Control Board, and U.S. EPA identified storm water and capacity issues at 13 recycling facilities.

More details relating to the Oakland initiative are available on *CalEPA's EJ Task Force webpage*.

Environmental Enforcement Training Grant Program

CalEPA administers the Environmental Enforcement and Training Account Grant Program authorized by Penal Code sections 14300-14315 and California Code of Regulations, title 27, sections 10014-10016. This grant program furthers CalEPA's work of coordinating and assuring uniform environmental law enforcement by providing financial assistance for training environmental regulators, law enforcement, peace officers, and prosecutors. Most of the funding for the program comes from the inclusion of Supplemental Environmental Projects, or SEPs, in judgments in local, state, and federal environmental law enforcement actions. For more information on Supplemental Environmental Projects, please see [CalEPA's SEP webpage](#).

The Environmental Enforcement and Training Account grant funds are allocated according to the formula outlined in Penal Code section 14314:

- 25 percent to the Environmental Circuit Prosecutor Project run by California District Attorneys Association (CDAA);
- 25 percent to CDAA to provide environmental enforcement training to prosecutors, investigators, and regulators;
- 25 percent to the Commission on Peace Officer Standards and Training (POST) up to \$100,000; and
- The remaining for discretionary grants to be awarded to public agencies or private nonprofit organizations for the purpose of environmental enforcement training or to public agencies showing substantial need for local environmental enforcement efforts.

2016 Distributions

CalEPA distributed a total of \$593,360 for environmental enforcement and training grants in 2016. The statutorily required disbursements were made as follows:

- \$223,000 to CDAA's Environmental Enforcement Training Project;
- \$223,000 to CDAA's Environmental Circuit Prosecutor Project; and

- \$100,000 to POST, which intends to use the funds to develop an Institute of Criminal Investigation Certification for environmental crime for peace officers.

CalEPA received two applications for discretionary grants and awarded both, as follows:

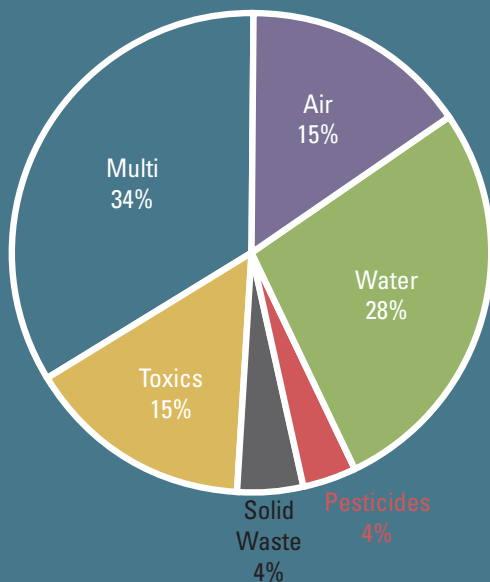
- \$22,500 to the California Air Pollution Control Officers Association (CAPCOA) to expand and host the second annual Air Quality Enforcement Symposium.
- \$24,860 to CDAA for continued support of the Environmental Circuit Prosecutors Project and for the costs associated with producing a third edition of the Environmental Crimes Prosecution Manual.

See CalEPA's [Environmental Enforcement and Training Grant Program webpage](#) for more information.

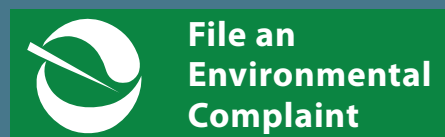
CalEPA's Online Complaint System

In April 2016, CalEPA updated its online system that provides members of the public with a website to report environmental problems to CalEPA from anywhere in the state. The updated system includes a process for reporting environmental concerns relating to air or water pollution, hazardous or solid waste, or pesticide use. The system is accessible from mobile devices, is able to capture location information of the person lodging the complaint, and allows the uploading of photos, videos, and other documentation of the problem. When a complaint is submitted, it is routed to the appropriate state or local agencies for investigation and enforcement. If the person submitting a complaint includes an email address, he or she will receive a notification of the agency that has received the complaint, along with that agency's contact information.

FIGURE 2: REPORTS OF ENVIRONMENTAL CONCERNS TO CALEPA IN 2016



The online complaint system serves as an early warning system. It alerts environmental enforcement agencies of potential violations and provides immediate witness accounts and documentation for investigations. This helps CalEPA and other environmental enforcement agencies address and resolve environmental problems at an early stage, before they become bigger problems. The online complaint system also supports state, federal, and local environmental enforcement efforts by providing a statewide tool that ensures environmental reports reach the proper authority, regardless of the location or the type of pollution. Further, it assists communities and agencies that may not have the resources to build their own online environmental complaint systems.



For the first eight months the complaint system was online, CalEPA received 1,238 complaints. Many of these complaints are under active investigation and 92 have resulted in enforcement action or violations being identified by the state or local agency investigating the complaint.

Air



The California Air Resources Board (CARB) regulates mobile sources of air emissions, fuels, and consumer products, while the 35 air pollution control and air quality management districts (air districts) regulate stationary sources of emissions. This section reports on the enforcement activities of CARB and the air districts.

California Air Resources Board

CARB coordinates California's efforts to meet health-based federal and state air quality standards, protect the public from exposure to toxic air contaminants, and address climate

change. To carry out its responsibilities, CARB has undertaken a multifaceted program of planning, regulation development and implementation, compliance assistance and training, and enforcement. The final two components, compliance assistance and enforcement, help ensure achievement of anticipated emissions reductions and assure a level playing field for all regulated entities.

With 40 million people and 27 million vehicles, achieving clean air and reducing carbon emissions in California is a challenge. To achieve this goal, CARB brings out-of-compliance companies into compliance with air emission requirements, and assesses penalties to deter future non-compliance.

In addition to the Volkswagen cases discussed below, during 2016 CARB settled 220 enforcement cases in more than 15 different regulatory programs, and assessed more than \$13 million in penalties. CARB also issued over 2,900 citations and collected an additional \$2.8 million in citation penalties.

CARB's enforcement settlements in 2016 included payment of more than \$1.8 million by violators to support Supplemental Environmental Projects. The Supplemental Environmental Projects funded during 2016 included over \$1 million to upgrade school buses, more than \$722,000 to fund equipment and scholarships at community colleges to train diesel mechanics on proper maintenance of diesel engines, and \$35,343 for training students on small off-road engine repair. CARB also adopted a new policy in 2016 addressing the need to fund

California at a Glance



40 million residents



18 million workers



\$2.6 trillion GDP



27 million vehicles



970 million vehicle miles traveled daily



49 million gallons of gasoline and diesel fuel burned daily

For more information, see www.arb.ca.gov/enf/reports/2016_enf_annual_report.pdf

Vehicle, Engine, and Parts Enforcement

Vehicles and engines sold in California are required to be certified by CARB to model year emissions standards and demonstrate durability. Certification requirements are the cornerstone of CARB efforts to control emissions because they establish the emissions limits that must be met and they ensure that emissions remain low over the full useful life of a vehicle, engine, or part. Automobile and parts manufacturers certify a vehicle, engine, or part by documenting that their vehicle, engine, or part meets CARB requirements. The manufacturers test emissions from prototype vehicles on specified dynamometer based duty cycles and document these results in their annual certification application. The certification process thus depends on the submission of accurate and complete certification applications by manufacturers.



Volkswagen, Audi, and Porsche

After several years of intensive investigation by CARB staff, CARB discovered that Volkswagen and sister companies Audi and Porsche installed defeat devices in 85,000 diesel fueled vehicles sold in California, which meant that these vehicles did not comply with emissions standards. Volkswagen and Audi admitted to installing illegal defeat devices in their 2009 through 2015 model year, 2.0 liter, diesel passenger cars. The defeat devices used computer software to switch between different emission calibration maps depending on whether the car was undergoing certification testing or was driving normally on the road. Additional investigation revealed that 3.0 liter diesel engines were also sold with defeat devices. These violations caused very high nitrogen oxide (NOx) emissions throughout the state and represented a serious breach of trust to customers who believed they were purchasing clean diesel vehicles.

These violations are now largely resolved through a series of settlement agreements between CARB, the U.S. Environmental Protection Agency (U.S. EPA),

U.S. Department of Justice, the California Office of the Attorney General, consumer groups, Volkswagen, and Audi that were finalized in 2016 and early 2017. The combined national settlement based on the defeat devices is the largest in the history of air quality enforcement, totaling at least \$25 billion in company expenditures nationwide to date.

Settlement Highlights

- **Addressing the vehicles:** The companies will offer to buy back or modify to an appropriate level of emissions control 85,000 vehicles in California. The consent decrees establish stringent and enforceable emissions requirements that all illegal vehicles remaining on the road must meet over their remaining lifetime.
- **Compensating consumers:** The settlement agreements require compensation to vehicle owners for the companies' illegal actions, regardless of whether the vehicles are fixed or bought back. Compensation ranges from \$5,100 to \$44,176 per vehicle, depending on the vehicle type, age, and mileage.
- **Protecting the environment:** California will receive approximately \$423 million for mitigation projects, and \$25 million for deposit into the Air Pollution Control Fund for zero emission vehicle (ZEV) projects for low income Californians.
- **Mitigating harm to the zero emission vehicle market:** Over ten years, Volkswagen will invest \$800 million in California to enhance zero emissions vehicle infrastructure and enhance accessibility to zero emission vehicles and demonstrate technology deployments in a "green cities" concept. CARB approval is required for these investment plans.
- **Penalties for the Violations:** Under the settlement agreement, Volkswagen must pay \$93.8 million in penalties for deterrence and \$60 million for CARB's testing and implementation costs.

In addition to the above compensation and mitigation costs, Volkswagen will pay more than \$4.3 billion in civil and criminal fines nationwide and six company employees have been indicted on criminal charges.

As a result of the Volkswagen, Audi and Porsche cases, CARB announced its intent to investigate other manufacturers' diesel vehicle products to ensure that emissions defeat devices were not being used. While many manufacturers have passed these tests, several have not. CARB is working with U.S. EPA, the U.S. Department of Justice, the California Office of the Attorney General, and the manufacturers to address these violations.

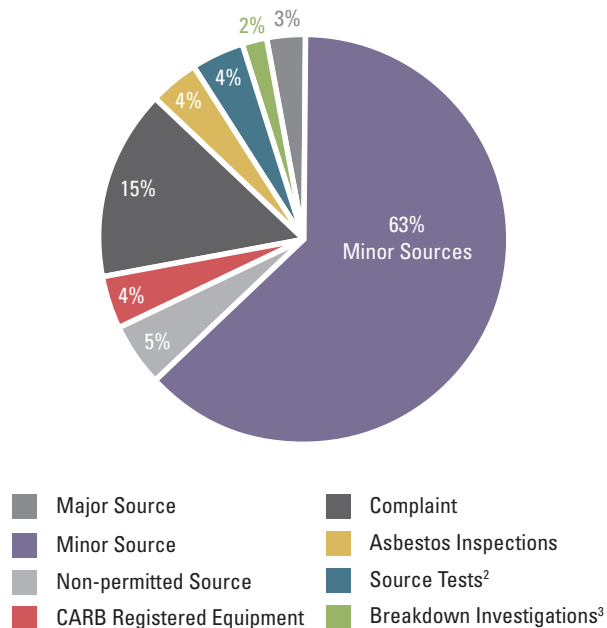
Supplemental Environmental Projects that benefit disadvantaged communities.

Air Districts

There are *35 local air districts* located throughout California. The air districts implement various

enforcement conducted by the air districts complements their compliance assistance and outreach programs and motivates violators to promptly return to compliance.

FIGURE 3: AIR DISTRICT INSPECTIONS^{2,3}



Air Districts

- Monitor air quality
- Compile emission inventories
- Plan to meet air quality standards
- Respond to complaints
- Educate the public
- Provide grants targeted to reducing air pollution
- Adopt local rules and implement federal and state air pollution laws and regulations
- Issue permits and conduct inspections at businesses and industries that emit air pollutants
- Resolve violations through effective enforcement

programs and activities at the local level to protect the public from the harmful effects of air pollution.

Each year, the California Air Pollution Control Officers Association (CAPCOA), an association representing the air districts, surveys its members to quantify statewide enforcement efforts. The 2016 survey collected information on 22 measures of compliance program performance from each participating district during the year. These measures included agency resource commitments, total number of facilities regulated, enforcement and compliance activity statistics, and total civil penalties collected.¹

In 2016, local air districts conducted over 96,000 inspections and investigations and identified over 9,000 violations of air quality standards. Air district enforcement for these violations resulted in \$16.5 million in fines and penalties, as well as non-cash settlement via Supplemental Environmental Projects or enhanced training. The large number of inspections and vigorous

TABLE 1: AIR DISTRICT ENFORCEMENT STATISTICS

Violations Found	9,108
Notices to Comply	5,310
Penalties ⁴	\$16,549,872

¹ The 2016 survey data represents responses from 18 air districts, representing 97% of the population of California.

² Source tests are performance tests during which a Stationary Source demonstrates compliance with an emission standard or other permit condition using a specified method. Source tests can include methods that directly measure emissions from a process or stack, or methods that demonstrate that emission controls are operating at the required efficiency.

³ Air districts investigate malfunctions or failures of air pollution control equipment or continuous monitoring equipment. When notified of a breakdown, districts investigate the cause of the breakdown and any potential consequences, such as uncontrolled emissions, and then take appropriate action.

⁴ This total does not include Supplemental Environmental Projects and other non-monetary settlement provisions.

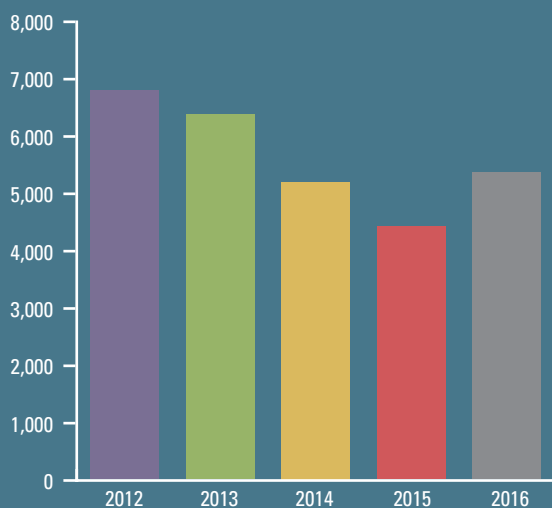


Portable Equipment

There are approximately 39,000 portable engines and equipment units registered in the statewide *Portable Equipment Registration Program* (PERP). Since 1997, owners of eligible portable equipment may choose to register in PERP, which allows for statewide operation, or register for local air district permits. Many of the portable engines registered in the PERP program are subject to the Portable Diesel Air Toxic Control Measure (ATCM), part of California's plan to reduce health risks due to diesel emissions. The PERP regulation and the Portable ATCM are designed to gradually phase out older, more polluting engines by limiting eligibility for initial registration and setting compliance dates for fleet average particulate matter (PM) emissions.

In addition to conducting inspections of stationary sources and permitted equipment, the air districts conduct inspections of PERP registered portable equipment and unpermitted/unregistered portable equipment. Thousands of portable engines and equipment units are inspected annually for compliance with local rules, the Portable ATCM, and the PERP regulation. The air districts and CAPCOA are also making important contributions as part of a working group drafting revisions to the Portable Diesel ATCM and the PERP regulation. The revisions are intended to clarify and simplify the requirements, while also maintaining progress towards reducing diesel PM from portable equipment.

FIGURE 4: REGISTERED PORTABLE EQUIPMENT INSPECTIONS



Toxics



The Department of Toxic Substances Control (DTSC) and local Certified Unified Program Agencies (CUPAs) enforce laws pertaining to hazardous materials and hazardous waste management.

DTSC oversees permitted hazardous waste facilities, hazardous waste generators, hazardous waste transporters, facilities that treat hazardous waste on site, transportable hazardous waste treatment units, and electronic waste recyclers, processors, and collectors. It inspects facilities for compliance with hazardous waste treatment, storage, transportation, and disposal requirements. Below are significant enforcement case highlights from 2016.

Department of Toxic Substances Control

DTSC Investigations & Enforcement Statistics

- 409 Facilities Inspected
- 4,017 Inspections for Illegal Transportation of Hazardous Waste at California Ports of Entry
- 116 Criminal investigations completed
- 41 Complaint investigations
- 35 Enforcement cases settled
- \$9,048,563 settlement dollars collected by DTSC

Apple Computer, Inc.

In December 2016, Apple Computer Inc. agreed to pay \$450,000 to DTSC to settle allegations of hazardous waste violations. The civil

settlement stemmed from violations found at Apple's Sunnyvale electronic waste shredding facility in 2013 and a subsequent investigation. DTSC found that Apple opened, operated, and closed an electronic waste shredding facility in Cupertino without DTSC's knowledge and that Apple did not properly handle metal dust from its shredder, which is a hazardous waste due to its concentration of metals. Apple processed about 1.1 million pounds of electronic waste at the Cupertino facility before closing it in January 2013 and transferring the operation to a facility in Sunnyvale. In Sunnyvale, Apple dismantled, shredded, and disposed of more than 800,000 pounds of electronic waste before notifying DTSC of the plant's existence and complying with applicable hazardous waste regulations.

Ardagh Glass Inc.

In August 2016, Ardagh Glass Inc. (AGI), a wine bottle manufacturer, agreed to pay \$3.5 million to settle violations of California's hazardous waste laws. In 2010 and 2011, DTSC discovered multiple hazardous waste violations at AGI's



Ardagh's contaminated dust that was used as a substitute for raw material.

Madera plant. The California Attorney General's Office filed a civil complaint in Fresno County against AGI, alleging that AGI illegally used dust containing lead, arsenic, cadmium, and selenium emitted from its glass-making furnace to manufacture new bottles. AGI agreed to pay \$3.5 million in penalties and to follow audit practices to ensure it remains compliant with hazardous waste laws.

FedEx Ground

In June 2016, FedEx Ground agreed to pay nearly \$3.4 million in penalties to DTSC for violating hazardous waste laws. FedEx Ground operates hub facilities in Sacramento, Los Angeles, and San Bernardino Counties and terminal facilities throughout California. DTSC found that FedEx Ground's practices and procedures for handling defective, broken, damaged, or leaking packages containing hazardous materials did not comply with regulations pertaining to the generation, handling, treatment, storage, and transportation of hazardous waste. The California Attorney General's Office filed a civil complaint against FedEx Ground, alleging eleven causes of action against FedEx Ground for hazardous waste violations.

Panda International Trading Co., and Da Xiong Pan Panda International Trading Company Inc.

Panda is a metal recycler in Maywood, California. DTSC's Office of Criminal Investigations (OCI) executed a search warrant at the facility and collected evidence that the company had released toxic levels of metal particulates onto the public sidewalk. In April 2016, the Los Angeles County District Attorney's Office filed criminal charges, including 10 felony counts, against the scrap metal recycler and its owner Dan Xiong Pan based on evidence obtained by DTSC. In September 2016, Da Xiong Pan plead guilty to five felony violations of environmental laws and received a 16 month prison sentence, which was suspended to one day in jail and 1,000 hours of community service. The same day, the company plead guilty to one felony hazardous waste violation, received three years' probation, and was ordered to pay restitution in the amount of \$53,568.26. In June 2016, the facility caught on fire, forcing 300 people to evacuate homes and businesses nearby. That fire is still under investigation.

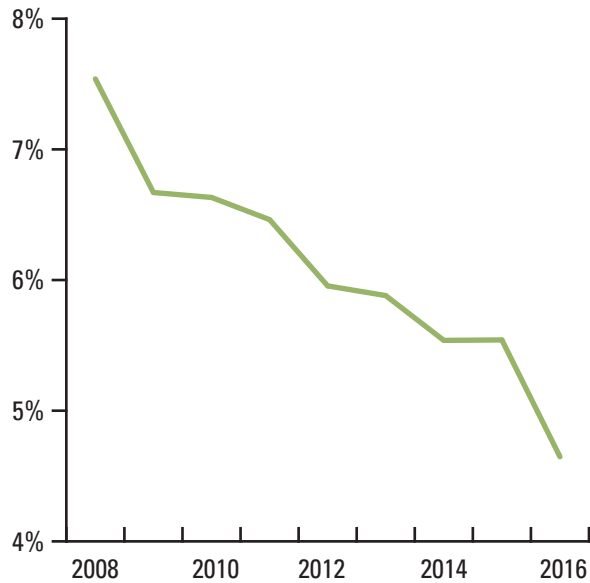
CalEPA's Unified Hazardous Waste and Hazardous Materials Management Program

CUPAs enforce state and federal laws pertaining to hazardous materials and hazardous waste management. CUPAs regulate over 160,000 businesses to ensure their compliance with hazardous material and hazardous waste management regulatory requirements. The CalEPA Secretary evaluates and certifies the local CUPAs under California's Unified Hazardous Waste and Hazardous Materials Management Program (Unified Program).

The Unified Program consolidates six hazardous materials environmental program elements into one regulatory program. The environmental programs include hazardous material storage (HazMat Storage), hazardous material release prevention (Release Prevention), hazardous waste generation (HazWaste Generators), large quantity generation of hazardous waste (Large Quantity HazWaste), underground storage tanks (UST), and aboveground petroleum storage tanks (AST). The Release Prevention and Large Quantity HazWaste programs apply more intense regulatory scrutiny to a small percentage of higher hazard facilities regulated by the HazMat Storage and HazWaste Generator programs.

The goal of the Unified Program is to reduce the impact of hazardous materials and waste on public health and the environment by increasing statewide and cross-program consistency. Figure 1 demonstrates the success of the Unified Program in these efforts with a decrease in reported hazardous material spills over the last eight years.

FIGURE 5: HAZMAT SPILLS AS A PERCENT OF UNIFIED PROGRAM FACILITIES



Unified Program Inspections and Violations

CUPAs reported over 163,000 inspections in 2016, resulting in over 147,000 identified violations across all program elements. About 72 percent of violations observed during inspections were minor, resulting in a notice to facilities that they must return to compliance within 30 days. About 3 percent (4,242) of violations observed in 2016 inspections were significant and categorized as a Class 1 violation, meaning they had the potential to pose a significant risk to public health, safety, or the environment. Figure 7 depicts the percentage of each Class 1 violation according to program element.

FIGURE 6: UNIFIED PROGRAM INSPECTIONS

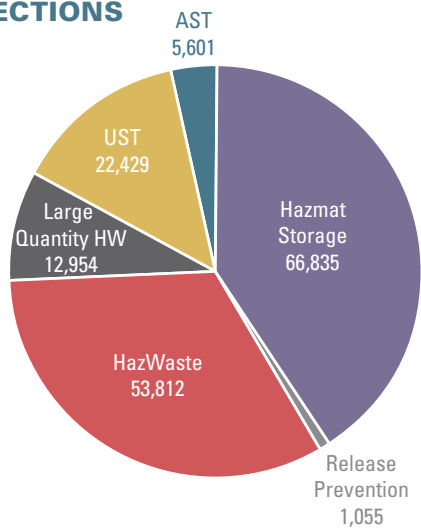
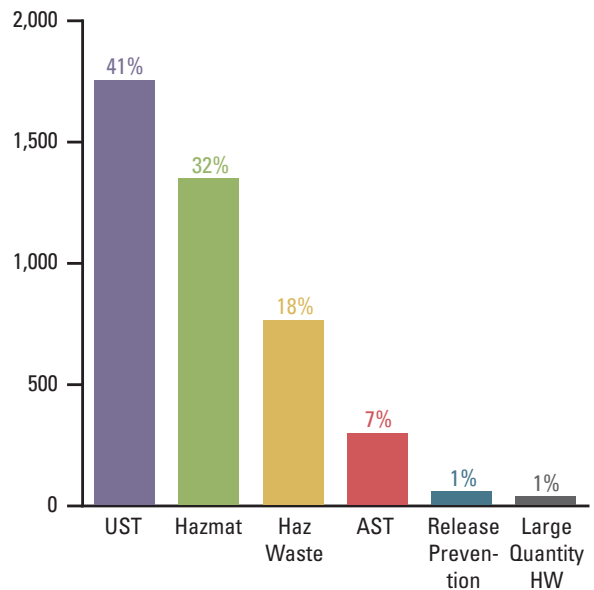


FIGURE 7: CLASS 1 VIOLATIONS BY PROGRAM



Penalties

CUPAs pursue penalties for significant violations through several types of action, including the issuance of administrative enforcement orders and referrals to local prosecutors for civil or criminal prosecution. In 2016, CUPAs pursued 265 administrative enforcement orders and referred 53 cases to local District Attorneys. During the administrative enforcement order process, a regulated business and the CUPA can negotiate a settlement for penalties and also include in a settlement funding for a Supplemental Environmental Project.

Total CUPA Penalties Statewide in 2016

Total Penalties assessed by CUPAs: **\$10,687,075**

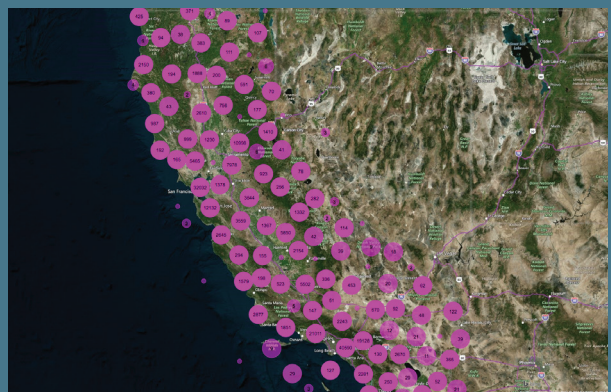
Supplemental Environmental Projects included in CUPA enforcement settlements: **\$6,352,027**



Regulated Site Portal

In late 2016, CalEPA launched its Regulated Site Portal. The Regulated Site Portal combines data about environmentally regulated facilities and sites from a variety of state and federal databases in a single, searchable database and interactive map. The Regulated Site Portal was created to provide a more transparent, comprehensive view of regulated activities statewide. It includes data on hazardous waste and materials, state and federal cleanups, impacted ground and surface waters, and toxic releases.

To learn more about the Regulated Site Portal and its data sources, or to view information about regulated sites in California, visit the [*CalEPA Regulated Site Portal*](#).



Water



The mission of the State Water Resources Control Board (State Water Board) is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. There are nine regional water quality control boards. Their mission is to develop and enforce water quality objectives and implementation plans that will best protect the beneficial uses of the state's water, while recognizing local differences in climate, topography, geology and hydrology.

of stringency. For the most serious violations, they impose penalties.

Under their water quality authorities, the Water Boards regulate 72,158 facilities that potentially discharge pollutants to water bodies or groundwater, which includes 36,957 farming operations enrolled in the irrigated lands program. The Water Boards also oversee 6,935 groundwater sites that require clean up. The State Water Board's Division of Drinking Water oversees 11,613 water utilities while the Division of Water Rights administers 32,762 water rights. Altogether, the Water Boards and local governments that oversee drinking water systems conducted 8,113 inspections in 2016.

Water Boards 2016 Enforcement Statistics

- **23,575** Violations Found
- **4,062** Enforcement Actions Issued
- **\$25.1** Million Penalties Issued

The State Water Board and the nine regional water boards, collectively called the Water Boards, regulate water utilities that serve drinking water to the public, facilities that discharge or potentially discharge pollutants to water bodies, and water rights to help ensure that the state's limited water resources are put to the best possible use and the public interest is served. Where the Water Boards detect violations of regulatory requirements, they take enforcement actions that vary in types and levels

Regional Water Board Water Quality Enforcement Cases



Point Buckler

The San Francisco Bay Area Regional Water Quality Control Board issued a clean up and abatement order in August 2016 to clean up unauthorized fill from a discharger who built a levee around his 39 acre Suisun Marsh island and destroyed the island's tidal marsh habitat. The Regional Board also issued an administrative civil liability in the amount of \$2,828,000 after a hearing in December 2016 for the unauthorized activities of discharging fill into the Suisun Marsh and failing to obtain a water quality certification. This is the highest penalty ever issued by the Regional Board and addresses the significant loss of tidal marsh about 30 acres that impacted habitat for several endangered species. The owner challenged the board's order in Solano County Superior Court, and in 2017 the court ruled in favor of the owner. The Water Board has appealed this ruling.

San Altos

The San Diego Regional Water Quality Control Board imposed civil liability in the amount of \$598,367 to a developer for water quality impacts of construction activities at its Valencia Hills development in the City of Lemon Grove. The project involved building 73 homes on 18.26 acres. Due to persistent lack of erosion and sediment controls and inadequate housekeeping practices, the site discharged sediment laden storm water at least six times between December 2014



and September 2015. Sediment, resulting from the accelerated erosion of exposed and inadequately protected graded land, is the pollutant of greatest concern at construction sites because the sediment itself can damage aquatic life and ecosystems. In addition, sediment can pose an even greater threat because it often transports other harmful pollutants such as metals, fertilizers, pesticides, oil and grease and bacteria into creeks, bays and the ocean. In addition to the discharge of pollutants, the water board found 12 other specific permit violations including failure to cover and berm stockpiled materials, failure to implement vehicle fluid leak protection, and inadequate soil cover for slopes among other permit conditions.

Shaver Lake Dam

The Central Valley Regional Water Quality Control Board, along with California Department of Fish and Wildlife, reached a settlement agreement with Southern California Edison for \$3 million related to violations stemming from a repair project at Shaver Lake Dam in Fresno County. The project caused the discharge of highly turbid, sediment laden water, killing thousands of fish and resulting in irreparable harm to downstream aquatic habitat. Unacceptable levels of sediment and turbidity were reported in Stevenson Creek, a downstream tributary of Shaver Lake, as a result of the lake being dewatered for the repair project. Turbidity is cloudiness in the water due to suspended sediment, which blocks sunlight and makes it difficult for fish and other aquatic life to survive.

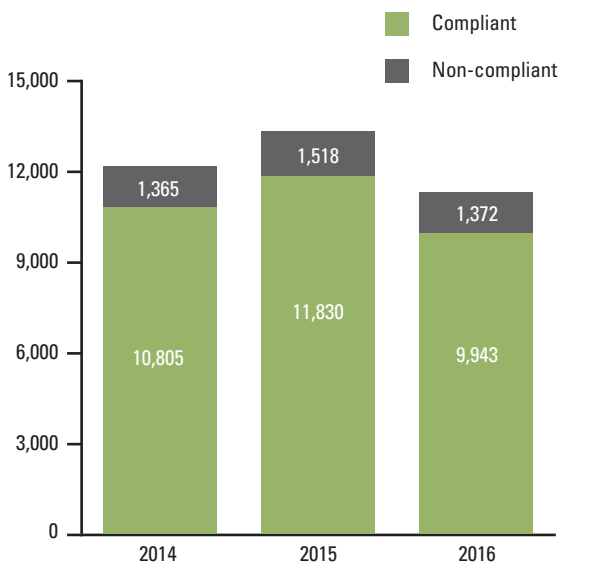
For more information about the Water Boards' enforcement activity, see their [annual performance report](#).

Pesticides



The Department of Pesticide Regulation (DPR) works closely with the County Agricultural Commissioners (CACs) to enforce laws and regulations pertaining to pesticide sales and use. Under DPR's oversight and guidance, CACs conduct various inspections of pesticide applicators, growers, and businesses to ensure compliance with pesticide regulatory requirements and protection of people and the environment. CACs also issue site-specific permits for restricted-use pesticides, which allows them to impose additional use restrictions. When CACs find violations, they follow DPR's enforcement response policy and take appropriate enforcement actions.

FIGURE 8: AGRICULTURAL INSPECTIONS



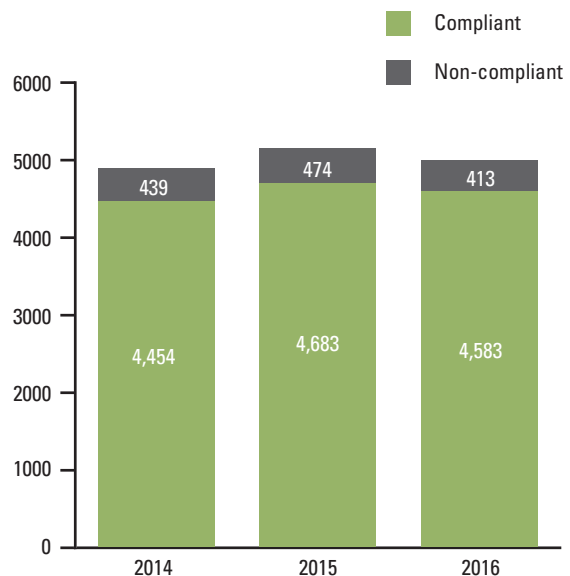
Agricultural pesticide use monitoring inspections 2014-2016

In 2016, CACs conducted over 11,000 agricultural inspections throughout California. Each inspection includes a review of different criteria

to ensure compliance with pesticide regulatory requirements. In 2016, approximately 12% of the inspections documented at least one violation. The top two violations were failure to follow the label or permit conditions for use and application of a pesticide, and failure to wear appropriate personal protective safety equipment.

The CACs also conduct structural pest control inspections of applicators and businesses that perform pest control in and around homes, buildings, and landscapes. In 2016, CACs conducted approximately 5,000 structural pest control inspections. Approximately 8% of the structural pest control inspections revealed a violation. The top two violations for structural pest control inspections were failure to follow labeling and respiratory protection requirements.

FIGURE 9: STRUCTURAL INSPECTIONS



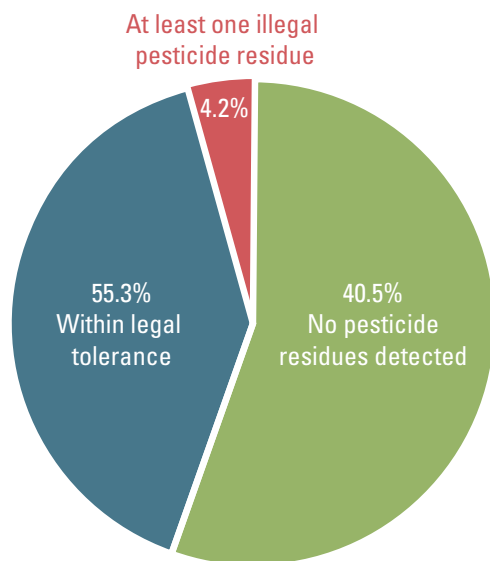
Structural pesticide use monitoring inspection from 2014-2016

Pesticide Residue Monitoring Program

DPR conducts inspections at wholesale markets, chain distribution centers, retail markets, farmers markets, and other businesses statewide that sell produce. DPR randomly samples and tests both domestic and imported fresh fruits and vegetables to ensure they do not contain pesticide residues in excess of legal limits.

In 2016, DPR collected 3,583 produce samples. Testing results showed that 96% of the samples either did not contain any pesticide residues (40.5%) or had pesticide residue levels below the legal tolerance (55.3%). 4.2% of the samples had a level of pesticide residue in excess of the legal tolerance or contained a pesticide not approved for that crop.

FIGURE 10: PESTICIDE RESIDUE MONITORING RESULTS



2016 results of residue monitoring for samples of fresh fruits and vegetables.

For the produce samples with illegal pesticide residues, DPR immediately investigated and quarantined the produce. The owner of the quarantined commodity could either securely dispose of the quarantined produce or “recondition” the produce to reduce an over-tolerance of an otherwise legal residue or eliminate an illegal residue.

In addition, DPR has the authority to levy civil

penalties against anyone who packs, ships, or sells produce with illegal pesticide residues. For more information about illegal pesticide residue, visit cdpr.ca.gov/docs/enforce/residue/rsmonmnu.htm



Orchard air-blast pesticide application.

In 2016, DPR imposed \$45,000 in civil penalties against four California produce companies with a history of recurring illegal pesticide residue violations.

Pesticide Sales Enforcement

All pesticide products must be registered by DPR before they can be sold in California. Prior to issuing a certificate of registration, DPR scientific and technical staff review data on the product to ensure that it is properly labeled and will not cause human health or environmental problems when used as directed. DPR inspects businesses throughout the state that sell a full range of pesticide products, including those used in agriculture, swimming pool chemicals, disinfectants used by industrial facilities and restaurants, insect repellents, and even insecticide treated apparel, to assure that the products are properly registered and labeled.

TABLE 2: UNREGISTERED & MISBRANDED PESTICIDE PRODUCTS

	2014	2015	2016
Number of Products	309	220	333
Number of Cases Settled	93	96	85
Penalties Collected	\$2,822,189	\$1,716,648	\$1,423,377

In 2016, DPR settled 85 cases with businesses and individuals that sold 333 unregistered or misbranded pesticide products in California. A number of those cases involved products that are not typically thought of as pesticides:

- In one case, an outdoor lifestyle retailer sold pesticide impregnated clothing with unqualified pesticidal claims, resulting in a penalty of \$86,000.
- A major office supply retailer, whose online advertising for binders had antimicrobial claims to stop the spread of germs in schools and offices, paid a penalty of \$89,552.
- A large chain of domestic merchandise retail stores paid a penalty of \$61,645 for sales of fabric shower curtain liners with unsupported antimicrobial claims.
- A distributor of an unregistered product with claims regarding disinfection of yoga mats paid a penalty of \$46,586.


During 2016, DPR also conducted 43 inspections of U.S. EPA registered establishments that manufacture and package pesticide products. Inspections focused on proper labeling, container safety standards, and verification that pesticide producers have designed and maintained storage facilities and dispensing equipment that mitigate pesticide spills. These inspections were conducted under federal authority and violations were referred to U.S. EPA for enforcement; eight cases were forwarded to U.S. EPA for action.

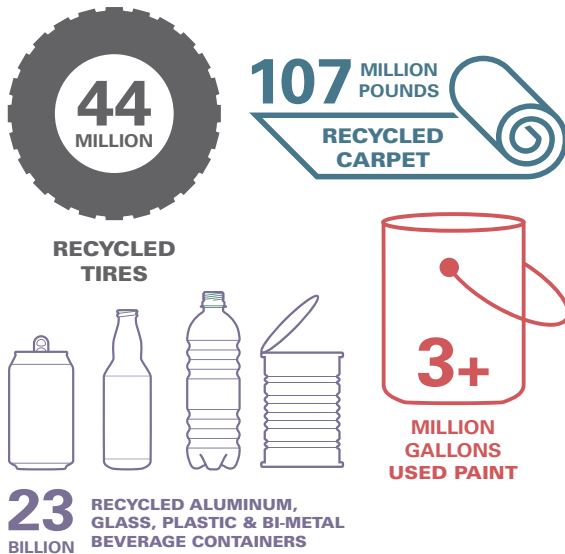
Solid Waste & Recycling



The Department of Resources Recycling and Recovery (CalRecycle) and local enforcement agencies protect public health, safety, and the environment by regulating solid waste facilities, including landfills, and promoting recycling of a variety of materials, including organics, beverage containers, electronic waste, waste tires, and used oil. Committed to a sustainability ethic,

California diverted 33.8 million tons of solid waste, 36 million tires, almost 3 million gallons of used paint, and 86 million pounds of used carpet from landfills in 2016, and recycled 18.4 billion aluminum, glass, plastic, and bi-metal beverage containers that might have otherwise been disposed of at landfills

Ca Recycle  In 2016, California disposed, processed, managed, or recycled more than 76.5 million tons of solid waste.



Compliance Assistance

Enforcement is an essential part of CalRecycle’s mission to protect the state’s public health, safety, environment, and fiscal integrity—important responsibilities shared with our local and state agency partners. CalRecycle focuses on compliance assistance before taking formal enforcement action that would lead to penalties, restitution, or other legal remedies.

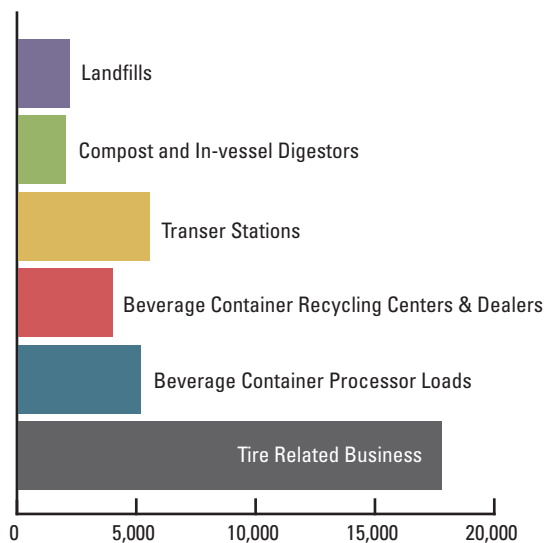
Compliance assistance can take many forms, including monitoring, technical support, outreach, and training. CalRecycle consistently provides the regulated community information and guidance regarding regulatory requirements to help them remain in compliance. CalRecycle frequently inspects recycling and waste disposal facilities to resolve compliance issues early. CalRecycle addresses violations through imposition of administrative remedies or civil penalties. In more egregious or fraudulent situations, CalRecycle pursues criminal prosecution in partnership with the California Department of Justice.

CalRecycle also regulates the recovery and recycling of mattresses through a new producer responsibility program.

Enforcement Activity

Regular inspections ensure facilities, haulers, generators, recycling centers, recyclers, processors, and distributors comply with applicable laws and permit conditions regarding disposal and recycling of solid waste. In many cases, inspection intervals are dictated by statute and range from monthly (solid waste facilities) to biennial probationary reviews (beverage container recycling centers), depending upon the program and facility type. Facilities that have demonstrated greater difficulty complying with regulatory requirements generally are inspected more frequently.

FIGURE 11: INSPECTIONS BY FACILITY TYPE



Frequent inspections allow for early detection of noncompliance. If a permitted or certified facility is out of compliance or operating without a permit, the inspector can issue a notice of violation. In most cases, the operators correct the identified problem in a timely manner and no enforcement action is necessary. However, CalRecycle and local enforcement agencies can impose civil penalties, suspend permits or certifications, or seek other remedies if the operators do not correct violations.

FIGURE 12: VIOLATIONS BY FACILITY TYPE

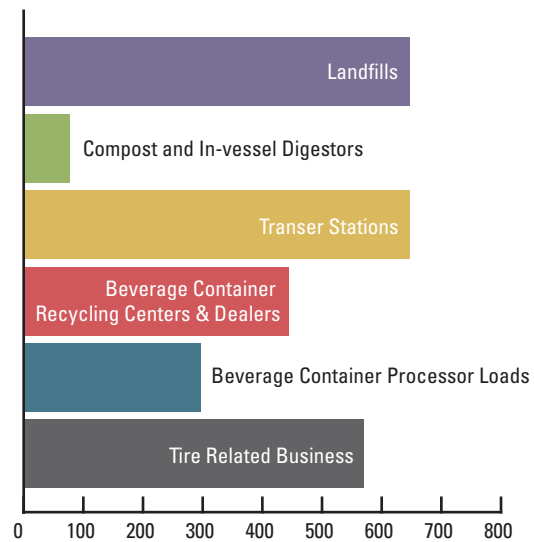


FIGURE 13: ENFORCEMENT ACTIONS BY PROGRAM

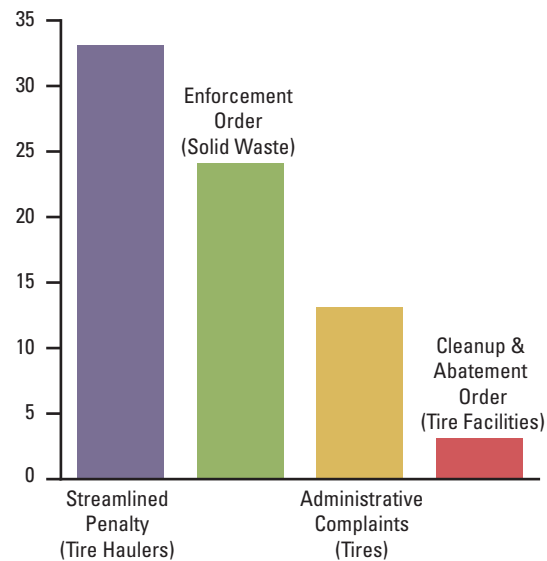


Figure 13 summarizes actions taken during 2016 in the solid waste and waste tire programs to protect public health, safety, and the environment.⁵ Owing to early, frequent, and constructive engagement with operators, the number of enforcement actions taken as a percentage of facilities and participants is relatively small—less than four percent for both programs. The percentages of inspections that

⁵ Enforcement actions pursuant to the Beverage Container Recycling Program are featured in the next section and is not included in Figure 13.

resulted in enforcement actions are less than one percent for unpermitted tire facilities, just over two percent for tire hauler penalties, and four percent for solid waste facilities.

In 2016, CalRecycle inspections resulted in no enforcement actions against retailers or manufacturers in the carpet or paint stewardship programs.

CalRecycle Partnerships with other Departments to Combat Beverage Container Recycling Fraud

California is the nation's leader in total quantity of bottles and cans recycled—more than 18 billion in 2016—worth about \$1.27 billion in California Redemption Value (CRV) in 2016. California's Beverage Container Recycling and Litter Reduction Act incentivizes recycling through the CRV incentive paid by California consumers when they purchase beverage containers included in the program. CalRecycle certified recycling centers refund the deposit when consumers return empty beverage containers. Fraud sometimes occurs when criminals bring in large volumes of out of state containers, which are not eligible for CRV refunds since the fee is paid only on containers sold in California. These illegal loads can be worth tens of thousands of dollars.

When investigations reveal potential criminal activity, CalRecycle refers the cases to the California Department of Justice (DOJ). CalRecycle partners with DOJ and the California Department of Food and Agriculture (CDFA) in the fight against recycling fraud, particularly related to containers coming from out of state for illicit CRV redemption. CDFA inspects vehicles crossing the border into California, and DOJ conducts criminal investigations and prosecutes fraud cases. This partnership yields significant results and deters further criminal activity. In 2016, DOJ initiated 12 investigations, closed six investigations, and arrested 18 individuals for beverage container recycling fraud. Arrests were made for felony recycling fraud, attempted grand theft, and conspiracy to illegally transport used beverage containers from neighboring states with the intent to defraud California.

Beverage Container Case Highlights

- In the summer of 2016, DOJ arrested 11 people connected with two Reno to Sacramento smuggling investigations. Each case involved the collection, illegal transport, and fraudulent redemption of out of state beverage containers through the CRV program. These containers had a total potential redemption value of nearly \$12,000. Both investigations involved suspects bringing used beverage containers across state lines from Reno using routes intended to avoid required stops at the CDFA border checkpoint in Truckee.



Evidence obtained during August 2016 search of Yuba City Self Storage locker.

As a result of a DOJ search of storage facilities in South Gate (near Los Angeles), two men were sentenced to prison and will pay a combined \$1.02 million in restitution for operating multi state recycling fraud rings that involved bringing used beverage containers from Arizona and New Mexico into California to unlawfully obtain recycling deposit refunds.



Acting on a tip from CalRecycle, DOJ agents searched 18 storage units and seized 35,479 pounds of cans worth an estimated \$70,958 in potential CRV. They also seized 9,125 pounds of plastic bottles worth an estimated \$11,406 in potential CRV.

- In another Los Angeles case, a truck driver stated he was transporting cans from Arizona and did not have the documentation required to import used beverage containers into California. DOJ agents witnessed the truck driver take a 70 mile detour to avoid a CDFA checkpoint. If the driver had gone through the CDFA checkpoint, he would have been required to declare the contents of his load and produce the documentation. The trailer contained approximately 7,000 pounds of bottles and cans worth an estimated \$11,000 in potential CRV.



Truck load worth an estimated \$11,000 in potential CRV.

- The Mission Fibers case, launched in 2014, is the largest enforcement case in the history of the program. Mission Fibers hired a trucking company to import used beverage containers from other states for illegal redemption in California, masking origin of the materials by way of a stolen CRV program certification number. The Los Angeles County District Attorney's Office filed a criminal complaint against former owner David Scott

Anderson, who pleaded guilty to two counts of filing fraudulent redemption claims, totaling \$4.24 million and one count of attempted fraud, totaling \$15.7 million. Scott was sentenced to three years in prison for fraud and an additional two years based on a "white collar enhancement." The court also ordered restitution to CalRecycle of \$9.1 million.

More detailed information about CalRecycle enforcement programs and activities for 2016 can be obtained from the Annual Reports on the [CalRecycle website](#).

Environmental Health Hazard Assessment

The mission of the Office of Environmental Health Hazard Assessment (OEHHA) is to protect and enhance public health and the environment by scientific evaluation of risks posed by hazardous substances. OEHHA has no enforcement authority. Instead, the Office performs the scientific assessments used by other CalEPA boards and departments and other regulatory agencies in the development of standards and regulatory decisions, including enforcement.

Proposition 65 Implementation

As the lead agency for implementing Proposition 65 (the Safe Drinking Water and Toxic Enforcement Act of 1986), OEHHA evaluates and maintains the list of chemicals that cause cancer or reproductive toxicity. OEHHA also develops “safe harbor” levels of exposure to listed chemicals. Exposures that are below these levels do not require Proposition 65 warnings. Although OEHHA has no direct Proposition 65 enforcement authority, OEHHA provides scientific expertise in cases brought by the state Attorney General’s Office to enforce the law’s requirements. In 2016, OEHHA added 12 chemicals to the *Proposition 65 list* of carcinogens and reproductive toxicants.

In April 2016, OEHHA launched a new *Proposition 65 Warnings Website*, which provides information on listed chemicals, including methods to reduce or eliminate exposure. The site also provides detailed Proposition 65 compliance information for businesses. OEHHA has developed more than 30 fact sheets for the website and continues to add more content.

CalEnviroScreen

CalEnviroScreen, the nation’s first comprehensive statewide environmental health screening tool, uses existing environmental, health, and socioeconomic data to help identify California communities that are disproportionately burdened by multiple sources of pollution and most vulnerable to the effects of pollution. The tool was developed by OEHHA to assist CalEPA in carrying out its environmental justice mission to conduct its activities in a manner that ensures the fair treatment of all Californians, including minority and low-income populations. CalEPA has used CalEnviroScreen to identify disadvantaged communities that will be eligible for state-funded projects that benefit those communities, and to inform its enforcement and cleanup activities. The CalEPA Environmental Justice Task Force discussed on page 3 has used CalEnviroScreen to assist with its cross-media enforcement initiatives in disadvantaged communities.

In 2016, OEHHA developed an updated version of the screening tool, CalEnviroScreen 3.0, through an extensive public review process. After releasing the initial draft, CalEPA and OEHHA held seven workshops and two webinars to solicit public comment on the draft. The new version of the tool added two new indicators, which measure high housing costs and cardiovascular health. The housing-cost indicator shows the fraction of each census tract’s low-income households that pay more than half of their income for housing. The cardiovascular health indicator shows the rate of visits to emergency departments for treatment of heart attacks.

California Environmental Protection Agency

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