

**“CAL/EPA ENFORCEMENT IMPROVEMENT INITIATIVES 2000”
A Report to the Legislature on actions taken to Implement
Government Code Section 12812.2**

This report provides an update on the progress made and actions taken by the California Environmental Protection Agency (“Cal/EPA”) to implement Government Code Section 12812.2. This section, which became effective January 1, 2000, specifies the duties of the Cal/EPA Deputy Secretary for Law Enforcement and Counsel and directs that person to:

- 1) Develop a program to ensure that Cal/EPA entities, or local government entities that implement laws or regulations within its jurisdiction, take consistent, effective, and coordinated compliance and enforcement actions. The program shall include training and cross-training of inspection and enforcement personnel of those boards, departments, offices, or other agencies to ensure consistent, effective, and coordinated enforcement
- 2) Establish a cross media enforcement unit to assist Cal/EPA entities, or local government entities that implement laws or regulations within its jurisdiction, to investigate and prepare matters for enforcement action.
- 3) Refer violations of law or regulation within the jurisdiction of Cal/EPA, or local government entities that implement laws or regulations within its' jurisdiction, to outside prosecutors such as the Attorney General or District Attorney.

Program to ensure consistent and effective enforcement actions

Cal/EPA has taken several steps to improve agency enforcement programs. Prior to January 1, 2000 (the effective date of Government Code Section 12812.2), Secretary Hickox requested that all Cal/EPA Boards and Departments conduct a review of their enforcement programs, identify challenges and shortcomings, and possible solutions. This was completed at the end of 1999. This review was used in developing Cal/EPA's Comprehensive Enforcement Initiative Budget Change Proposals (BCPs) and other planning processes. Cal/EPA Boards and Departments are following through with workplans for accomplishing many of the goals identified in the review process.

Funding for the implementation of Section 12812.2 was used to create the following new positions:

- A Career Executive Assignment (“CEA”) position, Assistant General Counsel for Enforcement, at Cal/EPA under the direction of the Deputy Secretary to coordinate the new cross media training program, develop plans to create the

agency's cross media enforcement unit and to focus exclusively on enforcement issues. The position was filled in February.

- Two and one-half positions, housed at the Air Resources Board (ARB), under the supervision of the Deputy Secretary, were created to develop, implement and monitor a new basic inspector-training program, including cross media elements, for all Cal/EPA Boards, Departments, and Office. These positions were filled in December 1999.

New Training Programs

Program development is nearly completed for a new Cal/EPA Inspector Certification Program. Beginning in the year 2001, this new program will be offered to all Cal/EPA field personnel and to our local agency counterparts. An inter-agency task force was established to oversee the development of the program's training standards and curricula. Staff surveyed and analyzed state and local environmental regulatory agencies' training needs.

The Cal/EPA Inspector Certification Program will contain three elements. These elements include the Cal/EPA Basic Inspector Academy, the Cal/EPA Cross Media Enforcement Symposium, and a clearinghouse for applicable inspector training.

The Cal/EPA Basic Inspector Academy is a new two-week training course, consisting of 20 different subjects, including report writing, sampling, field safety, evidence collection and an overview of California environmental laws. It will provide baseline knowledge for all Cal/EPA and associated agencies' inspection staffs, and will work in conjunction with existing media specific training already available. The Cal/EPA Cross Media Enforcement Symposium will be slightly modified from its existing format to become a continuing education component, keeping inspection staff up to date on current issues in environmental enforcement. The Symposium is an annual 4-day training event that is open to all levels of government and the public. Approximately 300 attend every year. Training sessions cover the jurisdiction and enforcement programs of each of Cal /EPA's Boards and Departments and their local counterparts. Mock administrative, civil and criminal proceedings are held so that regulators can experience how their work can affect these types of proceedings.

The staff developing the training programs are also creating a clearinghouse of all Cal/EPA's available training for those inspection staff that wish to obtain more education in a specific field within or outside their agency. Future plans include putting this information on Internet sites for easier access and distribution.

The first session of the new two-week "Basic" course is scheduled for February 2000 in Sacramento. The Cal/EPA Cross Media Enforcement Symposium will be held May 29-June 1, 2001 in San Diego.

Creation of an Agency Cross Media Enforcement Unit

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

A Cross Media Enforcement Task Force led by the Deputy Secretary for Law Enforcement and Counsel has been established that consists of representatives of each of Cal/EPA's Boards and Departments. The Task Force meets monthly to provide input and direction on cross media investigations and consider long range cross media enforcement and policy direction issues.

Cal/EPA is analyzing the best methods to utilize cross media inspections. During the past year, Cal/EPA conducted a pilot cross media inspection program involving chrome-plating businesses in the Los Angeles basin. These inspections were conducted by teams of Cal/EPA inspectors and local authorities. The results of the inspections have been compiled and are currently undergoing review. A written report complete with recommendations for future such projects will be released in the near future.

Case referrals

During the year 2000, Cal/EPA has made several referrals involving allegations of violations of environmental laws to the Attorney General's Office, the US Attorney and local District Attorneys. At this point in time, the only case that can be described in a public report is the referral made to the Attorney General's Office in the matter of alleged violations by Arco regarding its underground tanks. That matter is still pending with the Attorney General's Office.