

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY**

**2002 Cal/EPA Enforcement Program Update  
A Report to the Governor and Legislature on Actions Taken  
to Implement Government Code Section 12812.2**

**January 2003**

**2002 CAL/EPA ENFORCEMENT PROGRAM UPDATE**  
**A Report to the Governor and the Legislature on Actions**  
**Taken to Implement Government Code Section 12812.2**

This report provides an update on the progress made and actions taken during 2002 by the California Environmental Protection Agency (Cal/EPA) to implement Government Code section 12812.2. This statute, defines the duties of the Cal/EPA Deputy Secretary for Law Enforcement and Counsel (Deputy Secretary) as follows:

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

Following is a summary of activities in 2002 as they relate to the statutory mandate.

**1) PROGRAMS TO ENSURE CONSISTENT, COORDINATED AND EFFECTIVE COMPLIANCE AND ENFORCEMENT ACTIONS**

**A. Training and Outreach Programs**

During 2002, delivery of the Cal/EPA Inspector Certification Program continued. The Cal/EPA Inspector Certification Program consists of three components: The Cal/EPA Basic Inspector Academy, the Cal/EPA Cross Media Enforcement Symposium, and a clearinghouse for cross media inspector training. Each of these components is discussed in detail below.

- **The Cal/EPA Basic Inspector Academy (Academy):** This is a two-week training course consisting of 20 different subjects including: report writing, sampling, field safety, inspection techniques, and an overview of California environmental laws and agencies. It provides baseline knowledge and works in conjunction with existing media-specific training. The Academy serves state, tribal, and local field inspectors in environmental programs including inspection staff from within Cal/EPA and local implementing agencies such as local air districts, Local Enforcement Agencies (LEA's), Certified Unified Program Agencies (CUPA's) and County Agricultural Commissioners. In 2002, a total of 125 state, local and tribal inspection personnel completed the two-week training course. The course was offered in both Northern and Southern California locations to accommodate the needs of the trainees. The Academy will continue to be offered on a quarterly basis in 2003.

- **The Cal/EPA Cross Media Enforcement Symposium (Symposium):** This is an annual four-day training event that is open to environmental professionals at all levels of government, industry and members of the public, with approximately 300 individuals attending each year. Training sessions cover enforcement programs specific to each of Cal/EPA's boards and departments and their local counterparts. Mock administrative, civil, and criminal proceedings are presented to allow regulators to experience how their work can affect each type of proceeding. The Symposium is the continuing education component for our training program and provides up-to-date information concerning issues in cross media environmental enforcement.
- **Training Information Clearinghouse (Clearinghouse):** The Clearinghouse ([www.calepa.ca.gov/Enforcement/Training/Clearinghouse](http://www.calepa.ca.gov/Enforcement/Training/Clearinghouse)) provides one-stop shopping for environmental inspectors at both the state and local level. The Clearinghouse is designed to facilitate consistent and effective enforcement across environmental disciplines, encourage cross training, and help agencies share limited training resources. In addition to basic inspector training, the Web page contains links to courses in air pollution, water pollution, hazardous waste, solid waste, and pesticide regulation.

Cal/EPA also offered specialized training and seminars in 2002:

- **Underground Storage Tanks:** A seminar on underground storage tank (UST) regulation for prosecutors and regulators was presented in both northern and in southern California locations. The purpose of the seminar was to bring together those who inspect and investigate violations with those who ultimately bring civil and criminal cases so that both can understand their roles and needs.
- **Air Violations:** The Air Violations Enforcement Workshop was co-sponsored by Cal/EPA the California District Attorney's Association and the Los Angeles County District Attorney's Office. This two-day seminar, offered in southern California focused on the investigation and prosecution of air violations
- **Forensics:** The Environmental Crime Scene investigations, Tools and Techniques were presented in conjunction with the California Hazardous Materials Investigator's Association and the UC Riverside Extension. This course provided investigators with exposure to traditional forensic crime scene investigative techniques as applied in the environmental context. and training in advanced investigation and surveillance techniques. For example, the course includes segments in infrared photography, computer forensics, and forensic accounting, as well as environmental applications of traditional crime scene investigation techniques such as fingerprinting.
- **Roundtables:** Cal/EPA also hosts "Prosecutors Roundtables" on quarterly basis in southern and northern California to give environmental prosecutors at the state, federal and local level an opportunity to discuss on going cases and legal issues and to get needed information from regulatory programs.

### **C. Underground Storage Tank (UST) Enforcement**

In 2001, Cal/EPA worked with the State Water Resources Control Board (SWRCB) to create the first UST enforcement unit at SWRCB. In coordination with Cal/EPA and the Air Resources Board, the unit began the first statewide UST investigations. In 2002, as the result of a joint referral from Cal/EPA and the State Water Resources Control Board, an investigation into violations of underground storage tanks was settled by the Attorney General's Office (People v. Atlantic Richfield Company (ARCO) S.F. Superior Court No. CGC-02-409327). Cal/EPA, SWRCB and the ARB investigated and referred a case to the Attorney General's Office involving Atlantic Richfield Company's (ARCO) failure to comply with laws requiring upgrades for underground storage tanks by 1998 at multiple retail service stations. The terms of the judgment required that ARCO pay the state \$25 million in for fines and costs and to perform \$20.8 million in additional improvements at its California stations. This case represents many firsts: the first major case brought by Cal EPA pursuant to the cross media enforcement authority in Government Code section 12812.2; the first case investigated by the State Water Board Underground Tank Enforcement Unit; the first major statewide underground enforcement case ever brought in California; and by many measurers, the biggest underground tank enforcement case ever brought in the nation.

### **D. Data management Improvement**

Improvements were made in enforcement-related information accessibility in 2002. Staff conducted an initial review of enforcement program databases within Cal/EPA and it boards, departments and office; reviewed current methods for collection of data; and provided recommendations to improve current processes for gathering enforcement data with an emphasis on promoting standardization and consistency within the agency.

In conjunction with the existing Cal/EPA Integrated Data Environment Assessment (IDEA) project, Cal/EPA boards and departments, local enforcement entities and U.S. EPA.

The Cal/EPA Web site now includes an enforcement homepage (<http://www.calepa.ca.gov/Enforcement/>) to provide information concerning our enforcement programs along with links to similar sites within Cal/EPA's boards and departments. In addition, the Web site of the Office of the Secretary provides links to these sites and a word search function that enables searches of all Cal/EPA boards and the agency is integrating through a single internet node enforcement data collected and managed by departments for final enforcement orders.

## **E. Border Enforcement Program Support**

During 2002, Deputy Secretary staff continued to co-chair 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. The task force works with border environmental enforcement issues such as training needs, the New River, auto shredders, and custom brokers houses. Staff also participated in the Bi-National Environmental Enforcement workgroup, which includes Mexican environmental enforcement officials. The workgroup meets on a quarterly basis. Outreach continues to members of tribes in the border region to encourage participation in Cal/EPA programs such as the Border Taskforce and the State and Tribal Enforcement Grant Program. All these activities are aimed at encouraging consistent, effective compliance and enforcement efforts in the border area.

The Deputy Secretary continues to be the United States' state representative to the North American Working Group on Enforcement and Compliance Cooperation of the Commission for Environmental Cooperation (CEC). The CEC was established to address regional environmental concerns, help prevent potential trade and environmental conflicts, and to promote the effective enforcement of environmental law. The Agreement complements the environmental provisions of the North American Free Trade Agreement. This workgroup is made up of representatives from the federal governments of Canada, Mexico, and the United States and one state representative from each country.

## **F. The Environmental Circuit Prosecutor Project**

In 1998, the California Environmental Protection Agency, in association with the California District Attorneys Association, the Department of Fish & Game, and the United States Environmental Protection Agency established the Environmental Circuit Prosecutor Project (ECP) to fill a gap in the enforcement of water, air, and other environmental laws in small and rural counties in California. The ECP provides environmental prosecutors to small rural counties in California that lack the expertise and personnel to prosecute environmental crimes.

The Environmental Enforcement and Training Act of 2002 (AB 2486, Stats.1000, 2002) was the product of a working group established in response to the Governor's 2001 veto of a previous attempt to provide additional sources of support for the ECP. The Governor's directive was to find additional sources of funding that did not include use of the General Fund. The working group included representatives of Cal/EPA and its boards and departments, the Department of Fish & Game, local prosecutors, the California District Attorneys Association (CDA), the Attorney General's Office, the Commission on Peace Officer Standards and Training (POST), and legislative staff. The work of this group resulted in the drafting of AB 2486.

The new law amends Penal Code § 14300 et seq. and establishes the Environmental Enforcement and Training Account under the authority of the Secretary of Cal/EPA.

The Account is authorized to receive donations from sources such as settlements and court judgments. No state funds have been or will be allocated to the account.

The Account will be used as a source of funding for the ECCP and training for public prosecutors, peace officers, firefighters, investigators, and state and local environmental regulators. The law also codifies the Environmental Circuit Prosecutor Project as a cooperative effort of the CDA and Cal/EPA.

## 2) 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 Taskforce Support and Special Investigations Branch. Other Cal/EPA boards, departments, and office contribute resources on an as-needed basis. Pursuant to this agreement, cross media investigation and case development continued in 2002, including the following:

- **Cross Media Enforcement Task Force:** A Cross Media Enforcement Task Force led by the Deputy Secretary for Law Enforcement and Counsel was established in 2000 and consists of representatives from each of Cal/EPA's boards, departments, and office. The Task Force continues to provide input and direction on long range cross media enforcement and policy issues.
- **Cross Media Investigations:** Several pending cross media enforcement cases have been identified and investigations are underway utilizing cross media enforcement tools and methods that encourage Cal/EPA's boards, departments, and office to perform investigations which encompass more than one media or program such as toxics, underground storage tanks, and water or air quality violations.
- **Enforcement Progress Report:** In 2002 Cal/EPA prepared a first ever comprehensive report on environmental enforcement in California. This new report described the progress achieved each Cal/EPA board, department, and office, and by regional and local enforcement agencies. View the report at <http://www.calepa.ca.gov/Enforcement/documents/ProgReport.pdf>.

## 3) CASE REFERRALS

During 2002, Cal/EPA continued to make referrals involving allegations of violations of environmental laws to prosecutors such as the California Attorney General's Office, the U.S. Attorney and local District Attorneys. Some of these referrals are either currently being investigated and/or pre-filing settlement negotiations are in progress, specific target names cannot be disclosed at this time.

- **Underground Tanks:** The ARCO case (described above) was a joint referral to the Attorney General's Office by Ca/EPA and the State Water Resources Control Board. The matter was resolved in 2002 and resulted in the largest ever fine paid for underground storage tank related violations.
- **Aggregate Concrete Manufacturer:** Cal/EPA jointly referred a case to the Attorney General's Office regarding alleged air violations in Ventura County. The referral was made in conjunction with the Air Resources Board and the local Air Pollution Control District. The case was filed as a civil action and is pending at this time.
- **Landfill Cases:** Cal/EPA is coordinating investigations into alleged disposals of hazardous waste in landfills not designated for such disposal. These cross-media investigations include the Cal/EPA Special Environmental Investigations Unit, local enforcement agencies, the California Integrated Waste Management Board and Regional Water Quality Control Board staff and other governmental agencies.
- **Jewelry Manufacturers:** Beginning in 2001, Cal/EPA led and coordinated an investigation by the Air Resources Board (ARB), the Department of Toxic Substances Control (DTSC) and local unified program agencies of uncontrolled releases of hazardous jewelry manufacturing wastes from the jewelry businesses in downtown Los Angeles in an area known as the "Jewelry Mart." This case involves 30-40 building and hundreds of small to large businesses. This case utilized many tools for achieving compliance: traditional enforcement and compliance assistance and outreach. Cal/EPA, ARB and referred an enforcement case against specific individuals DTSC to the Attorney General's Office. In addition, Cal/EPA worked with state and local officials and industry in a coordinated outreach effort to inform the Jewelry Mart businesses of the regulatory requirements and compliance assistance information. In early 2002, an outreach and education seminar was put on for the Jewelry District by a joint effort of the local business community, the City of Los Angeles and state and local environmental regulatory agencies. This was followed by communication with the building owners in the District and by inspections of the buildings. It is the aim of the outreach and education efforts to give the owners and tenants information they need to come into voluntary compliance and reduce the hazardous materials used in their businesses. Those who do not take advantage of these efforts and remain in violation will be subject to enforcement actions.

### **Legal and Administrative Support**

In addition to the statutorily mandated activities noted above, the Deputy Secretary and her staff provide legal and administrative support to the CUPA enforcement programs; Environmental Justice Advisory Committee; Environmental Justice Inter-Agency Working Group; the Border Affairs Unit; the Children's Health Program; and the Sustainability and Environmental Management System programs on an ongoing basis. Support was also provided to local environmental taskforces throughout California to

encourage consistency, coordination, and efficiency in enforcement efforts and increase knowledge sharing between the local enforcement agencies, the Federal government and Cal/EPA. Currently, nearly every county in California is covered by an environmental enforcement task force. Additional information is available at <http://www.calepa.ca.gov/Programs/TaskForce>.