Chapter 4: Enforcement Plan

Introduction

This chapter describes the history and overall approach to enforcement by South Coast AQMD and the California Air Resources Board (CARB). In addition, the Community Emissions Reduction Plan (CERP) includes focused enforcement actions, which are described in Chapter 5 (e.g., open burn inspections).

Chapter 4 Highlights

- From 2017 through 2019, CARB conducted over 1,500 inspections and South Coast AQMD responded to approximately 370 complaints and conducted over 300 inspections within the Eastern Coachella Valley community.
- Both CARB and South Coast AQMD will continue to coordinate their enforcement programs to address air pollution sources effectively within their respective jurisdictions.
- An enforcement approach that utilizes specialized program structures, outreach efforts in the community, use of technology, and interagency partnerships can lead to further emission reductions.

Enforcement Programs - Purpose and Jurisdiction

The primary goal of enforcement activities is for regulated entities to comply with air quality rules and regulations, and to protect public health. Part of this process involves consistently identifying and resolving violations, thereby ensuring a level playing field for all regulated entities and preventing unfair advantages for companies that do not comply with rules and permit conditions.

Both CARB and South Coast AQMD enforce air pollution regulations, conduct inspections of air pollution sources, and have the authority to issue Notices of Violations that can lead to the recovery of penalties.[i]

An air pollution source can be a specific piece of equipment, a business, a government agency, or any other entity that creates air pollution. CARB is primarily responsible for enforcing rules that apply to mobile sources, while South Coast AQMD is primarily responsible for stationary sources (e.g., facilities).

Table 4--1: Overview of regulatory authority for South Coast AQMD and CARB

Air Pollution Source Category	Examples	Main Regulatory Agency
Mobile sources[ii]	Trucks, buses, ships, boats, cargo handling equipment	CARB
Stationary sources	Refineries, power plants, oil/gas facilities, manufacturing plants	South Coast AQMD
Area-wide sources	Paint used on buildings, prescribed burning, open burning	South Coast AQMD
Sources of greenhouse gases	Methane and certain other mobile source emissions, refrigerants, and other sources	CARB and South Coast AQMD

[i] More information about penalties is provided in Appendix 4.

[ii] Railroad operations are regulated at the federal level primarily by the Federal Railroad Administration and the Surface Transportation Board, and locomotive emissions are regulated by the U.S. EPA. These agencies' regulatory authority may preempt certain federal, state, and local regulatory authorities and actions.

Enforcement History

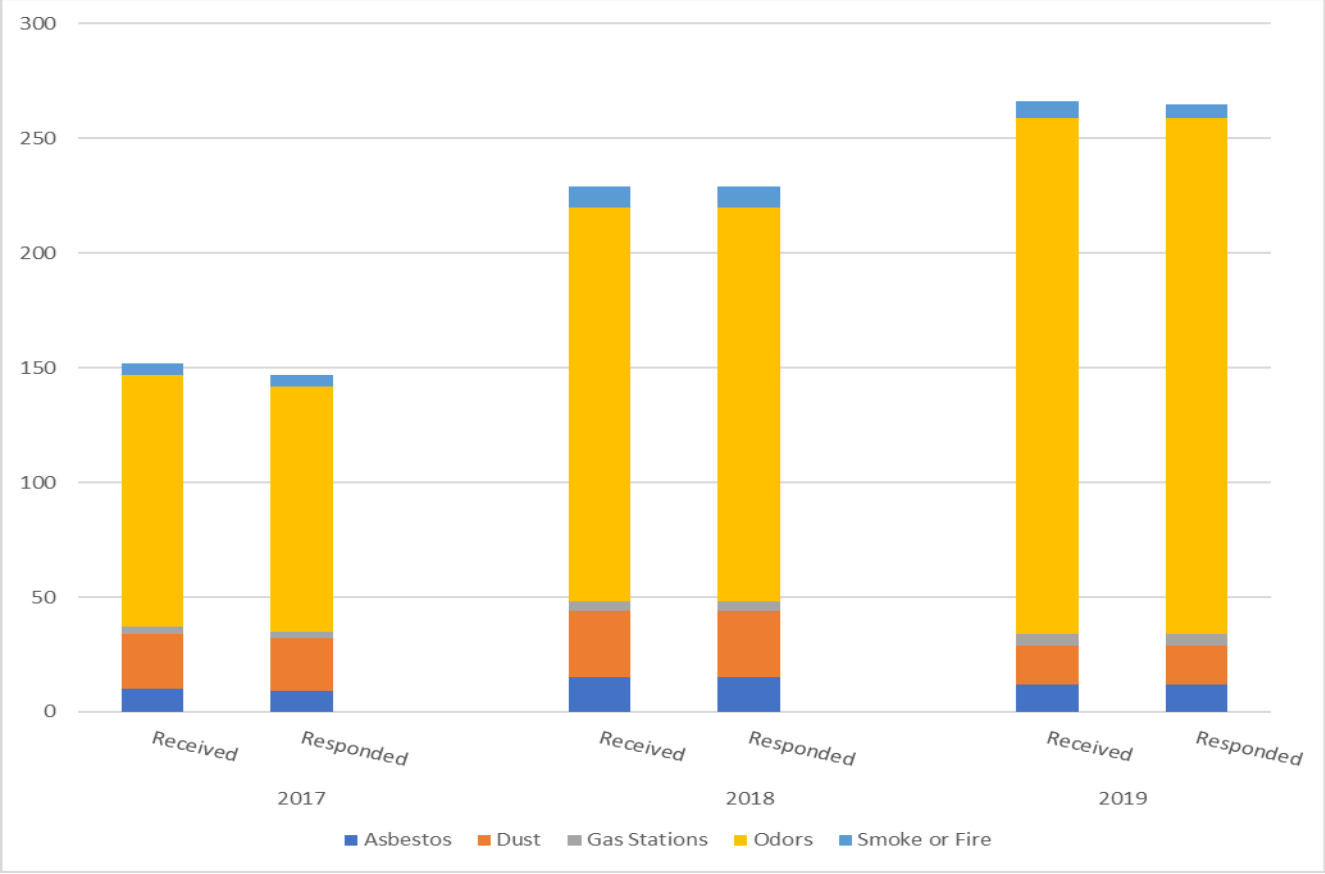
Both CARB and South Coast AQMD enforcement staff have had a significant presence in the community of Eastern Coachella Valley for many years. This section provides the most recent three-year enforcement history for each agency in this community.

South Coast AQMD Enforcement History in the ECV Community

South Coast AQMD's enforcement presence is comprised of many different compliance-related activities including, but not limited to, investigating complaints, responding to breakdowns and performing facility inspections.

Responding to complaints is a crucial part of South Coast AQMD's enforcement program. By taking complaints directly from members of the public, inspectors can focus their efforts to identify and address air pollution problems that matter to the community. South Coast AQMD's enforcement team gives priority to complaints and attempts to respond to every air quality complaint received. Figure 4-1 shows the number and types of complaints received and responded to by South Coast AQMD staff.

Figure 4-1: Number of complaints (by type) in the Eastern Coachella Valley community



South Coast AQMD enforcement staff perform inspections at facilities and other air pollution sources. These can include onsite inspections for permitted and non-permitted equipment, fugitive emissions, and compliance with rules and permit conditions, as well as surveillance activities in the community, such as efforts to trace the source of an odor. Additionally, South Coast AQMD enforcement staff perform inspections of open burn piles to ensure compliance with rules governing open burning. As of September 2020, there are approximately 233 facilities

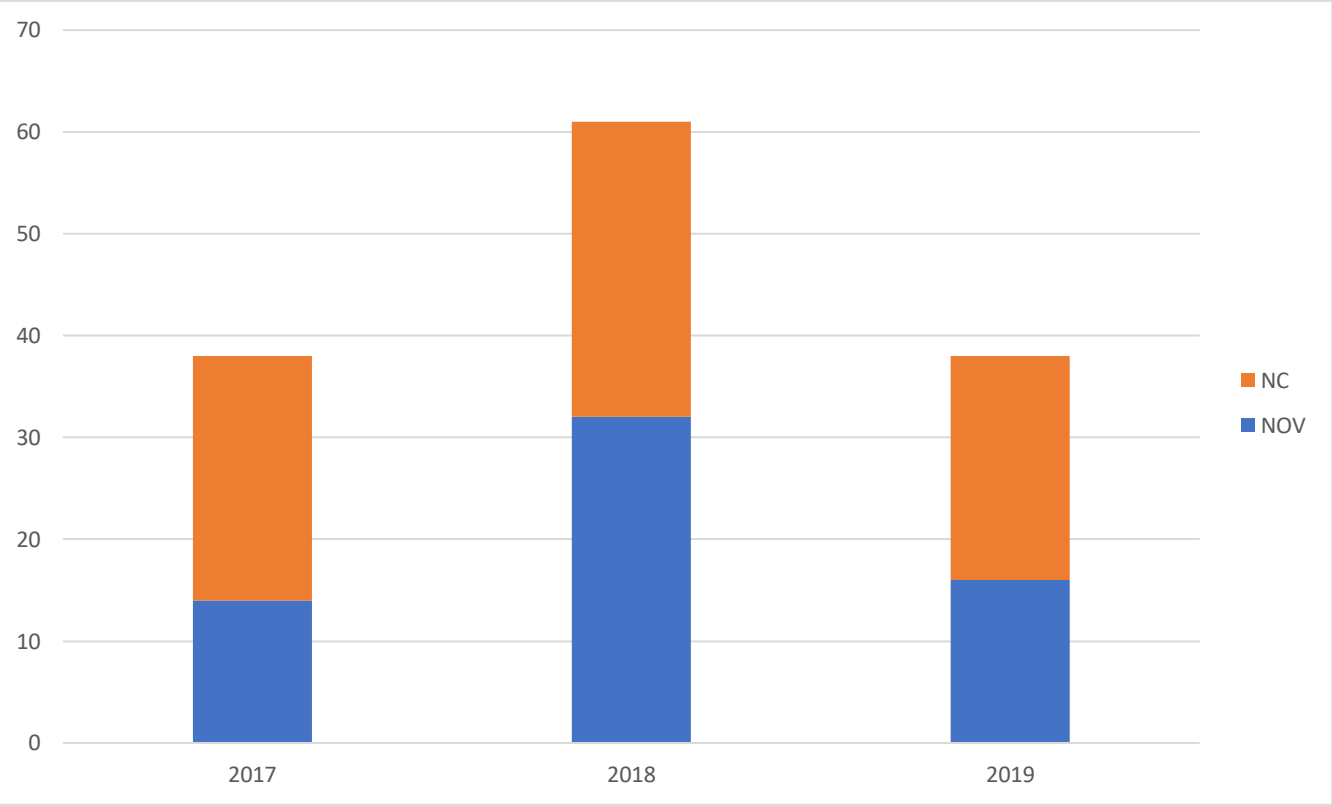
permitted by the South Coast AQMD in this community. A list of these facilities is available in Appendix 4. From 2017 through 2019, South Coast AQMD staff conducted approximately 63 facility inspections within the ECV Community Boundary, and approximately 250 open burn inspections.

Enforcement actions may involve issuing two types of notices:

- *Notice to Comply* (NC) – requiring a facility to correct a minor violation or to provide specified records; or
- *Notice of Violation* (NOV) – formally identifying violations of particular rules or regulations, which may result in civil penalties or, in some cases, referral for criminal prosecution.

From 2017 through 2019, South Coast AQMD issued 75 NCs and 62 NOVs in the ECV community. Figure 4-2 shows the number of NCs and NOVs in this community during this period. A list of these enforcement actions is available in Appendix 4.

Figure 4-2: Number of Notices to Comply (NCs) and Notices of Violation (NOVs) issued in the Eastern Coachella Valley community



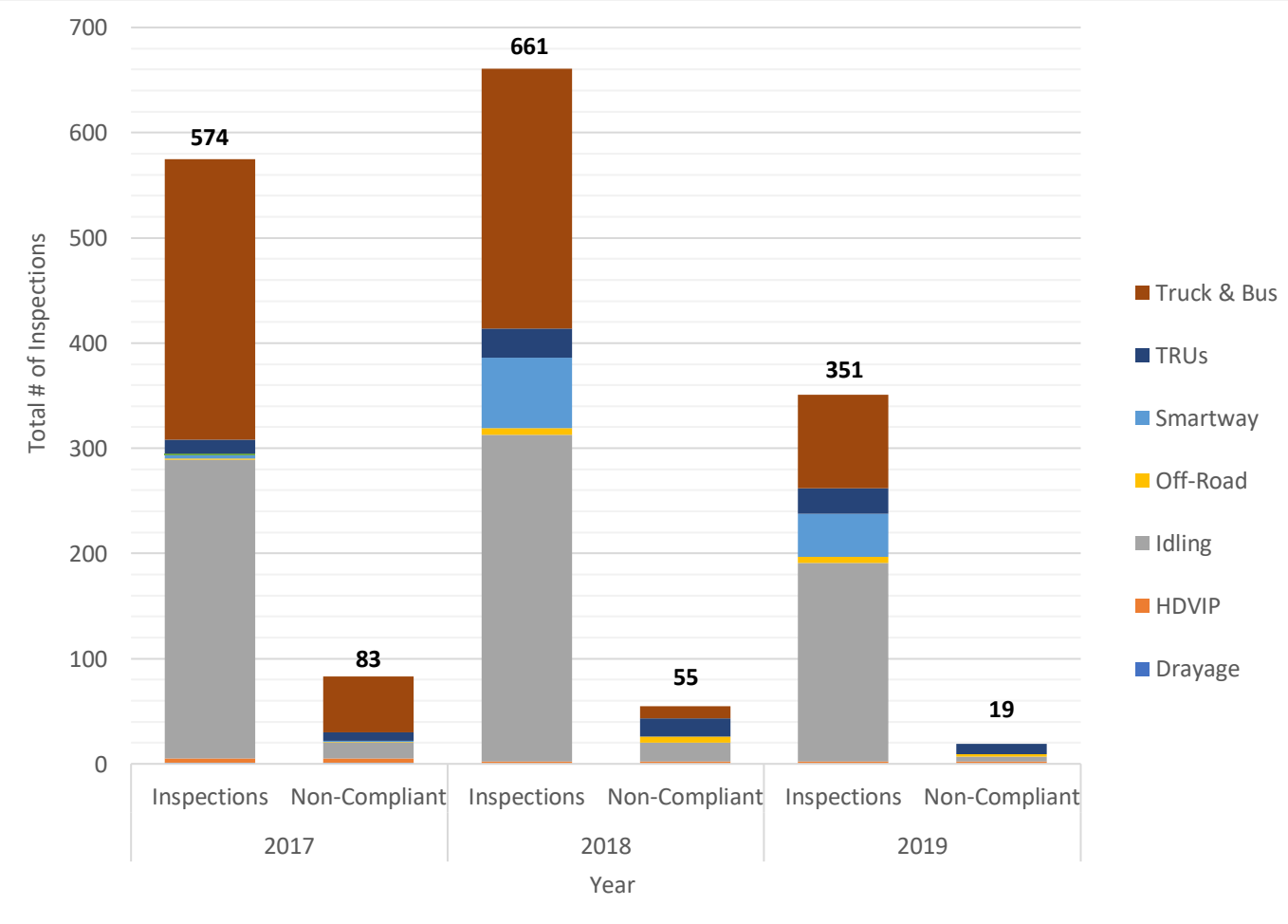
CARB Enforcement History in this Community

CARB's enforcement approach is two-pronged: ensuring compliance through robust, regular inspections and deterring violations through the penalty assessment process. From the compliance side, it includes conducting both field inspections and fleet-wide audits. For field inspections, the focus has been on enforcing heavy-duty diesel vehicle (HDDV) regulations, such as the Truck and Bus Regulation, the airborne toxic control measure (ATCM) to limit idling, and the Heavy-Duty Vehicle Inspection Program (HDVIP). At refineries and fueling stations, CARB enforces fuel formulation regulations. For railyards, CARB enforces regulations related to drayage trucks, transportation refrigeration units (TRUs), and cargo handling equipment (CHE) (see Figure 4-4**: CARB**

Enforcement Programs Relevant to the ECV Community below for a more detailed description of the enforcement program). From the deterrence-side, CARB Enforcement encourages violators to support CARB's community-based projects by setting aside a portion of penalties paid from enforcement action settlements for Supplemental Environmental Projects (SEPs).

As shown in the figure 4-3 below, CARB conducted over 1,500 HDDV inspections in the ECV community from 2017 to 2019 (see Appendix 4, Table 1 for a summary of HDDV enforcement activities in ECV, and Appendix 4, Table 3 to review individual HDDV inspection data). The overall compliance with CARB regulations was 90 percent, but varies annually. This may depend on a few factors, including the number of vehicles inspected and the method of selecting vehicles for inspection (e.g., targeting vehicles that might fail inspection). Over the three-year period, CARB issued 157 citations in the ECV community, 122 of which were for emissions-related violations (i.e. violations that directly contribute to air pollution) and 35 for non-emissions related violations (e.g., violations that could contribute indirectly to air pollution, such as a truck not complying with labeling requirements).

Figure 4-3: CARB 2017-2019 HDDV Enforcement History in ECV



Of the 784 heavy-duty trucks and buses and off-road equipment CARB has observed idling in the ECV community over the past three years, 38 were not in compliance with CARB's commercial vehicle, off-road equipment, or school bus idling rules (95 percent compliance overall). Reasons for a heavy-duty diesel truck to be compliant with the idling regulation can include idling for less than five minutes or idling greater than 100 feet from restricted areas such as schools and senior care facilities with a certified clean idle sticker. Compliance with CARB's idling

rules does not mean a vehicle complies with other CARB rules. CARB field enforcement has begun to focus on ensuring that these idling vehicles are also in compliance with all of the other pertinent CARB rules as well by conducting heavy-duty diesel compliance inspections along with idling inspections. Two important areas with lower compliance rates were off-road vehicles, like construction equipment, and TRUs— small transportation refrigeration units used to cool truck cargo areas—with compliance rates of 31 percent and 46 percent, respectively. Inspections under the Drayage Truck Regulation and the HDVIP were low and may not accurately reflect the rate of compliance under each program in the ECV community.

CARB field enforcement can only inspect a limited number of trucks. Therefore, vehicles more likely to be out of compliance, such as older or smoking vehicles tend to be pulled over more frequently than other vehicles. Additionally, compliance with the Truck and Bus Regulation is now supported by the California Department of Motor Vehicles (DMV) registration holds, moving that compliance rate even closer to 100 percent.

Beginning in 2018, CARB added the Streamlined Truck Enforcement Program (STEP) to enhance its ability to enforce the Truck and Bus Regulation through fleet-wide audits. From January 2018 to October 2019, CARB audited 377 fleets with a total of 1,155 vehicles in the ECV community and found 881 vehicles were compliant. CARB sent 244 fleets warning letters, and 308 vehicle owners Notice to Comply or Notice of Violation letters during this time period. From this process, CARB brought 30 vehicles into compliance through meeting CARB's Truck and Bus Regulation requirements and an additional 191 vehicles into compliance by requesting registration holds from the California DMV. Other vehicles are either in compliance through declaration of non-operational or low mileage usage status, sold out of state, or still in the process of being brought into compliance. While this process is faster than in-person fleet inspections, CARB staff believes that compliance with the Truck and Bus Regulation will continue to improve as California DMV vehicle registration is tied to compliance with the regulation through the end of 2023.

In addition to heavy-duty diesel vehicle inspections, CARB inspected 24 other, less common vehicle types and smaller engines, such as off-highway recreational vehicles and small off-road engines, from 2017 through 2019 in the ECV community, and found one violation under the Dealer and Fleet Tampering Program[iii].

In summary, from 2017 through 2019, both CARB and South Coast AQMD have conducted a range of compliance activities in the community. This includes more than 1,500 inspections from CARB enforcement staff related to heavy-duty diesel vehicles. Of those inspections, the majority (90 percent) were in compliance. South Coast AQMD enforcement staff conducted approximately 63 facility inspections, 250 open burn inspections, responded to approximately 370 complaints, and conducted numerous other investigatory activities in ECV. South Coast AQMD issued 62 Notices of Violation. A compliance rate may not be an effective predictor of overall compliance within the area, since a portion of compliance actions are against the same facilities. Due to the CSC's air pollution concerns in this community, an enforcement approach by both agencies that fully utilizes their specialized program structures, outreach efforts in the community, use of technology, and interagency partnerships can lead to further reductions in noncompliance and emissions. Both CARB and South Coast AQMD will continue to work closely with the CSC to identify and investigate air quality issues within the community.

Enforcement Approach

CARB and South Coast AQMD have each designed their programs to effectively address compliance with air pollution sources under their respective jurisdictions.

[iii] See Appendix 4 for Vehicles and Engines Enforcement History in ECV for more information

South Coast AQMD's Office of Compliance & Enforcement (OCE)

The structure of this group is based on inspection teams that focus on source type, with most inspectors assigned by geographic region. The organizational structure based on source type enables inspectors to become technical specialists on the air pollution regulations that apply to the types of industries or facilities assigned to that team. In addition, assigning inspectors by geographic area improves the agency's ability to respond in a timely manner to complaints or compliance issues in their assigned areas.

A list of OCE teams is provided in Figure 4-5 below. Examples of those teams include the Industrial team which has broad knowledge and inspects a wide variety of source types and equipment, the Toxics & Waste Management team which has the training and personal protective equipment to conduct inspections at facilities with toxic air contaminants, and the Service Station team which specializes in inspecting gas stations. Certain facilities may be inspected by staff members from multiple teams. This ensures that the approach is focused enough to address a variety of sources, yet flexible enough to handle complex facilities.

For most teams, the inspectors conduct regular inspections at their assigned facilities or within their assigned geographic regions. The frequency of regular inspections depends on the type of facility. For example, a chrome plating facility is inspected more frequently than an auto body shop. It is important to consider that there are approximately 110 chrome plating facilities in the South Coast Air Basin, compared to over 1,500 auto body facilities in the region. When considering limited resources, priority for inspections is typically given to higher risk pollution sources – that is, those facilities that emit the more toxic air pollutants and/or are close to schools, hospitals, and residential areas.

Figure 4-5: South Coast AQMD Enforcement Program

The **Area Sources team** focuses on small emissions sources that are relatively common and widely distributed; although each individual source is small, together these sources have a substantial total impact on air pollution. Examples include paints, consumer products (e.g. hairspray, home cleaning products), residential water heaters, and agricultural burning.

The **Industrial team** focuses on the widest variety of sources, ranging from dry cleaners to large manufacturing facilities to idling trucks. Inspectors in this team are assigned a geographic region and normally spend much of their time in the field. From this team, inspectors regularly conduct compliance activities in ECV.

The **Major Sources team** focuses on sources that are in the RECLAIM* program. Examples of these sources include power plants, oil production sites, and large manufacturing facilities. Inspectors in this team are assigned by facility, with each inspector assigned a set of facilities, some of which are in ECV.

The **Service Station team** focuses on gasoline service stations that serve the public, which can emit volatile organic compounds (VOCs). Inspectors in this team are assigned a geographic region. From this team, inspectors regularly conduct compliance activities in ECV.

The **Toxics team** focuses on facilities that emit Toxic Air Contaminants, including hexavalent chromium, lead, and other toxic metals. Examples include landfills, waste treatment facilities, and chromium plating shops. Inspectors in this team are assigned a geographic region, and regularly conduct compliance activities in ECV.

The following teams are part of OCE, but do not regularly conduct activities in ECV:

The **Energy team** focuses on crude oil production, energy storage sites, and bulk petroleum terminals. Inspectors in this team are assigned by facility, with each inspector assigned a set of facilities.

The **Refinery team** focuses on all the refineries, auxiliary hydrogen plants, and marine terminals in the South Coast Air Basin. Inspectors in this team are assigned by facility, with each inspector dedicated to a refinery and auxiliary plants. This team is based full-time in the Long Beach Field Office to ensure close proximity to the refinery sources that it regulates.

*REgional CLean Air Incentives Market requires participating facilities to manage their total nitrogen oxides (NOx) and/or sulfur oxides (SOx) emissions by adding pollution controls, changing their equipment or processes, or buying credits from other RECLAIM facilities that have lower emissions than their cap. The allowable amount of such emissions is reduced over time. The program is being transitioned to a command-and-control regulatory program.

CARB Enforcement's Program Structure

CARB enforcement's structure is based on over 50 enforcement programs that focus on specific source types. One of CARB's most comprehensive inspection programs has been around for decades–the Heavy-Duty Vehicle Inspection Program that ensures that vehicles are well-maintained in order to help keep air pollution low and meet the engine and smoke opacity standards. Last year, CARB's smoke opacity standard was tightened so that almost any smoke coming out of a HDDV is in violation of the standard (smoke opacity must be less than five percent for diesel particulate filter-equipped vehicles). This program helps ensure vehicles engines and emissions controls are properly maintained.

While this was the only truck rule CARB had related to reducing particulate matter emissions from trucks before the year 2000, the classification of diesel particulate matter as a toxic air contaminant in 1998 in California increased CARB's ability to regulate emissions from diesel vehicles. CARB regulations now reduce emissions from all types of fleets, like trash trucks, trucks and buses owned by public agencies, drayage trucks that carry cargo containers to and from ports and railyards, and most other trucks and buses over 14,000 pounds. Most of these trucks and buses are now required to have 2010 or newer model year engines by the end of 2023 to legally operate in California. In January 2020, the California DMV began requiring compliance with CARB's Truck and Bus Regulation for some of the older trucks in order to get the vehicle registered.

CARB has other rules that may be pertinent to the ECV community. TRUs, the small engines that keep goods in trucks cooled, are significant sources of diesel particulate matter for areas with cold storage warehouses. Under the Consumer Products Regulation, CARB ensures the VOCs that contribute to smog-formation are minimized in cleaners and other household goods through extensive statewide inspections. CARB also inspects motor vehicle fuels such as gasoline and diesel fuel to make sure they meet fuel standards that help achieve the maximum degree of emissions reduction possible from vehicular and other mobile sources. Finally, CARB ensures commercial trucks and buses, school buses, and off-road vehicles idle in compliance with the three corresponding regulations[iv]. Please see Figure 4-4**: CARB Enforcement Programs Relevant to the ECV Community** below and Appendix 4 for more HDDV enforcement program descriptions.

[iv] Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Vehicle Idling: https://ww3.arb.ca.gov/regact/idling/idling.htm; School Bus Idling Airborne Toxic Control Measure: https://ww3.arb.ca.gov/toxics/sbidling/sbidling.htm; Off-road Diesel Regulation: https://ww3.arb.ca.gov/msprog/offroadzone/landing/offroad.htm

Figure 4-4: CARB Enforcement Programs Relevant to the ECV Community

CARB ensures regulatory truck and bus **idling** limits are not exceeded. Trucks and buses with certified Clean Idle stickers are allowed to idle for longer than the five-minute limit. However, all trucks and buses - including those with certified Clean Idle stickers - are not allowed to idle within 100 feet of the property line of restricted areas such as schools, hospitals, and senior care facilities.

Drayage vehicles move goods by certified heavy-duty diesel vehicles (HDDV). HDDV that enter the port or intermodal rail facility are required to be certified to meet 2007 Engine Model Year emission standards.

For the **Heavy-Duty Vehicle Inspection Program**, CARB regularly conducts inspections for:

- Diesel Emission Fluid (DEF): a liquid used as a reductant in heavy duty diesel engines to reduce NOx emissions.
- Emission Control Label (ECL): Engine certification labeling requirements
- Smoke/Tampering: Requires heavy duty trucks/buses to be inspected

Statewide Truck and Bus program requires all vehicles with 2009 or older engines weighing over 14,000 pounds to reduce exhaust emissions by upgrading to 2010 or newer engines by 2023. Non-compliant vehicles are denied DMV registrations.

Transportation Refrigeration Units (TRUs) are refrigeration systems powered by diesel internal combustion engines designed to refrigerate or heat perishable products transported in various containers. CARB staff inspect TRUs to ensure that the units are meeting labeling and in-use performance standards.

The **Off-Road Regulation** requires off-road fleets (i.e., of construction equipment such as bulldozers, graders, and backhoes) to meet fleet average emission standards and be equipped with best available control technology (BACT).

Through targeted enforcement and public complaints, CARB identifies potential violations. CARB staff then contacts the responsible party to explain the enforcement process and to obtain additional information. Enforcement staff evaluates the information collected and works with CARB's Legal Office to determine violations of statutory and/or regulatory requirements. When violations are substantiated, CARB staff can take enforcement action, at which point the responsible party is provided an opportunity to discuss the violation.

Enforcement actions within the scope of CARB's enforcement authority may include issuing cease and desist orders, Notices of Violation, mitigation, or pollution prevention actions. Cases can be resolved via civil and criminal litigation as well as administrative penalties. In lieu of litigation, cases are typically resolved via mutual settlement. Penalties are sought that provide adequate deterrence to future non-compliance or public nuisance, and to take away any economic benefit of non-compliance.

For example, in 2017, CARB settled cases with Union Pacific Railroad Company (UP) and BNSF Railway regarding inaccurate and incomplete reporting of non-compliant drayage trucks entering their intermodal facilities. Under CARB's Drayage Truck Regulation, California ports and Class I rail terminals must report to CARB any non-compliant heavy-duty diesel trucks entering their facilities. For years, BNSF and UP failed to accurately report to CARB information on non-compliant trucks entering their facilities, which hampered CARB staff's ability to enforce the regulatory requirements. The settlements resulted in UP turning away non-compliant trucks from their facilities and BNSF accurately reporting truck data to CARB for enforcement, resulting in reduced diesel emissions from heavy-duty diesel trucks around both UP and BNSF facilities. [v]

During the settlement process, violators have the opportunity to allocate up to 50 percent of their penalties to a Supplemental Environmental Project (SEP). SEPs are community-proposed and community-based projects that aim to improve public health, reduce pollution, increase environmental compliance or bring public awareness to air pollution issues. If community members are interested in submitting a SEP proposal, please contact the Community Outreach and Enforcement Section at COES@arb.ca.gov (See Appendix 4 for additional information on SEPs).

How the Public Helps Reduce Air Pollution

Members of the public play an important role in communicating air quality concerns to both CARB and South Coast AQMD. The complaint process helps both agencies identify issues that are directly affecting the ECV community. The most effective way to contact the agencies is through the complaint hotlines. In addition to South Coast AQMD's mobile application, both agencies can be contacted by phone and online:

CARB - Mobile Sources

Automobiles, Trucks, Off-road Equipment, or other Vehicles

Phone: 1-800-END-SMOG

Online: calepa.ca.gov/enforcement/complaints

South Coast AQMD - Stationary Sources

Odors, Smoke, Dust, or other Air Contaminants

Phone: 1-800-CUT-SMOG (1-800-288-7664)

Online:

https://www.aqmd.gov/home/air-quality/complaints

Both CARB and South Coast AQMD value input from those who live and work every day in the community. Communicating air quality issues directly to the agencies with the information below is the best way to address an air pollution concern. Reporting an issue when it is occurring rather than after the fact helps the investigating agency's ability to find the source of the problem.

An effective complaint should contain information with specific details. It is very helpful to let CARB or South Coast AQMD know of a problem when it is occurring. This information helps inspectors conduct a thorough investigation and take appropriate enforcement action. The information below is valuable to complaint investigations:

[v] Other examples of enforcement settlement cases can be found in CARB's Annual Enforcement Reports (https://www.arb.ca.gov/enf/reports/reports.htm).

- Type of air quality concern (odor, smoke, dust, etc.)
    - Odors: description of odor
    - Smoke: color of smoke; does the smoke disappear or hang in the air?
    - Dust: type of dust (e.g., construction activities)
- Location of air pollution concern
- Name or address of potential source
- Time of day that the air quality issue began, and is the concern still occurring?
- Has the concern occurred before, and do other people in your community experience it as well?
- Contact information for the person reporting the complaint[vi]

Enforcement Considerations

An effective enforcement program must be flexible and adaptable to address the needs of the communities that are being served. Part of being adaptable is the ability to identify and address gaps in the enforcement process, such as previously unknown facilities or new pollutants of concern. As revealed over the course of the public process for CERP development, one such gap has been a lack of communication with members of the community, who have firsthand experience with local emissions sources and whose input is valuable to enforcement efforts. South Coast AQMD staff has therefore prioritized outreach and added staff to interact directly with the AB 617 communities. Because South Coast AQMD organizes its enforcement division both by source type for technical specialization and by geographic region, there is not a single dedicated enforcement team for AB 617; rather, the effort is spread across multiple existing teams so that a larger number of complaints and potential violations of air quality rules can be identified and addressed.

In addition, both CARB and South Coast AQMD currently maintain extensive records of compliance-related activities using databases and other digital resources. South Coast AQMD uses these resources to track metrics such as complaints, inspections, and enforcement actions. The data provided in this chapter and Appendix 4 are obtained from those databases. The statistics being tracked are also routinely reevaluated. For example, South Coast AQMD recently added an Agency Technical Assistance metric for instances where South Coast AQMD was asked by another agency to assist in that agency's efforts. CARB and South Coast AQMD will both continue to evaluate new metrics that may help to track and analyze inspectors' efforts in the AB 617 communities in order to attempt to identify more effective allocations of resources and/or potential solutions to air quality issues.

Finally, enforcement mechanisms exist to promote, and if necessary, compel, compliance by regulated sources. As discussed above, after South Coast AQMD inspectors investigate complaints and/or conduct facility inspections, they can issue NCs or NOVs. While both NCs and NOVs will generally require further action by a source, NOVs are referred to the Office of the General Counsel, where civil penalties are negotiated. If no settlement is reached, a civil lawsuit may be filed in superior court. Ongoing noncompliance, however, may lead to a petition before the South Coast AQMD Hearing Board. CARB and South Coast AQMD have each had a presence in this community that has led to various enforcement actions against local facilities.[vii]

In summary, the compliance process seeks to ensure that all rules and regulations are followed through a fair and robust enforcement program, resulting in reduced air pollution emissions. Adaptability is crucial, whether in the programs overall, or in day-to-day operations, to ensure that community concerns are addressed, and that enforcement action is taken when violations are identified. Both CARB and South Coast AQMD enforcement teams will continue to search for innovative strategies, take swift action to address noncompliance, and update the CSC on enforcement actions in the community.

[vi] Although anonymous complaints are accepted, staff have found that having contact information helps with confirming locations and other information necessary for a successful investigation, as well as reporting back to the complainant.

[vii] Additional details on South Coast AQMD and CARB enforcement actions can be found in Appendix 4.