Chapter 4: Enforcement Overview and History

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 within Chapter 5 (e.g., idling truck sweeps).

Chapter 4 Highlights

- From 2017 through 2019, CARB conducted over 3,500 inspections and South Coast AQMD conducted approximately 491 inspections and responded to approximately 688 complaints in the Southeast Los Angeles community.
- Both CARB and South Coast AQMD will continue to design 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 achieve compliance 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	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 the 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

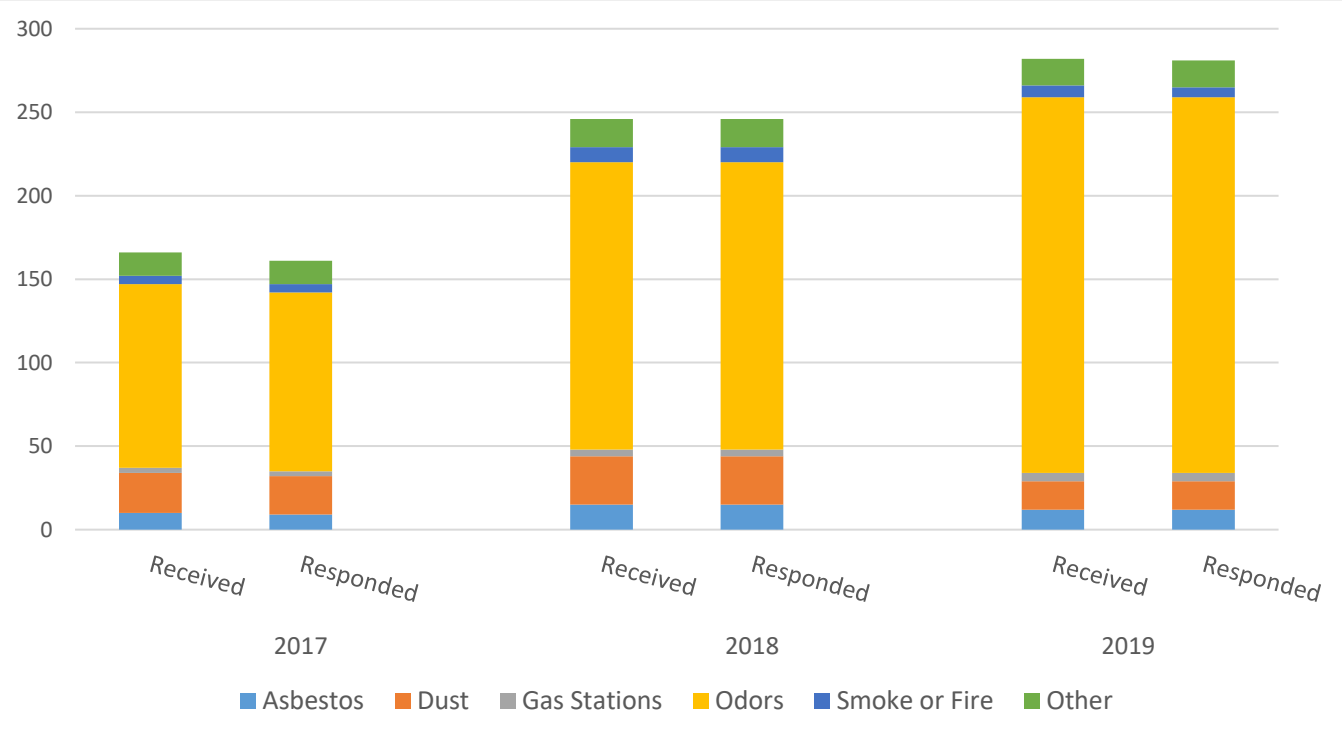
Over the years, both CARB and South Coast AQMD enforcement staff have had a significant presence in the community of Southeast Los Angeles (SELA). This section provides the most recent three-year enforcement history for each agency in this community.

South Coast AQMD Enforcement History in the SELA Community

South Coast AQMD's enforcement presence comprises 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.

Figure 4-1: Number of complaints (by type) in the Southeast Los Angeles community.



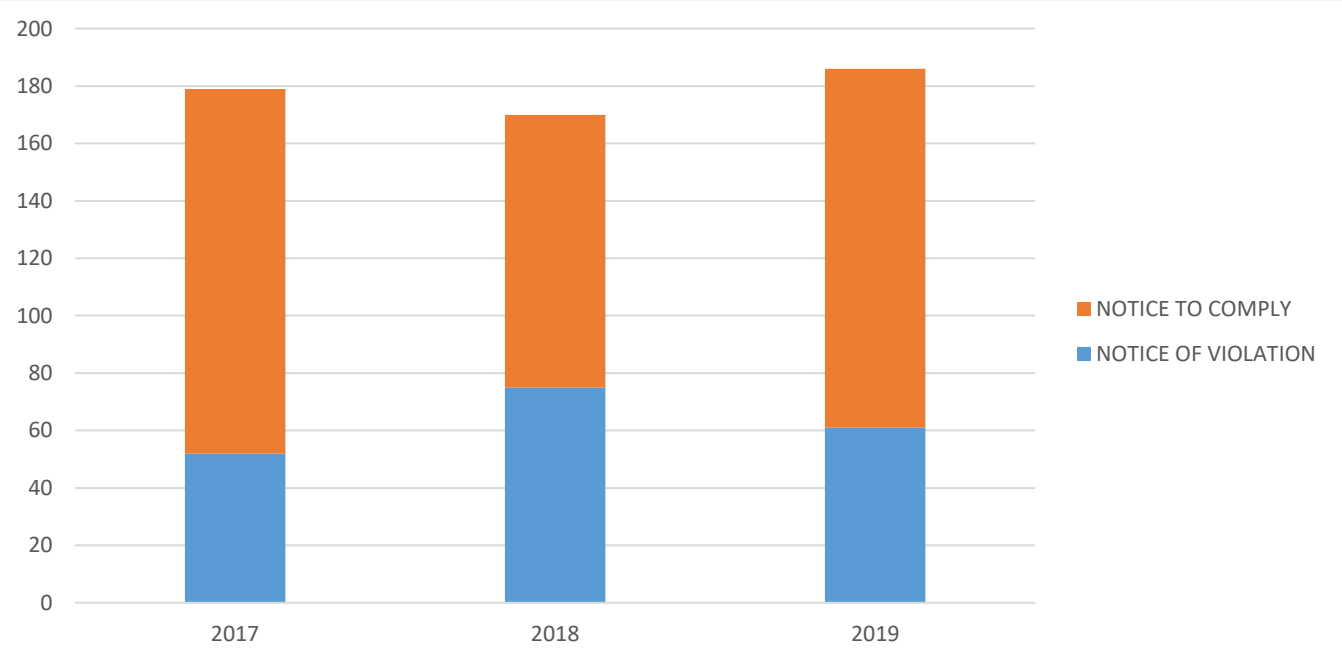
Additionally, South Coast AQMD's enforcement staff perform inspections at facilities and other air pollution sources. These can include onsite inspections for permitted and non-permitted equipment, fugitive emissions, and compliance with rules and permit conditions, as well as surveillance activities in the community, such as efforts to trace the source of an odor. As of September 2020, there are approximately 675 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 conducted approximately 491 facility inspections.

Enforcement actions may involve issuing one of 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 a violation 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 188 NOVs in the SELA 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 Southeast Los Angeles community.

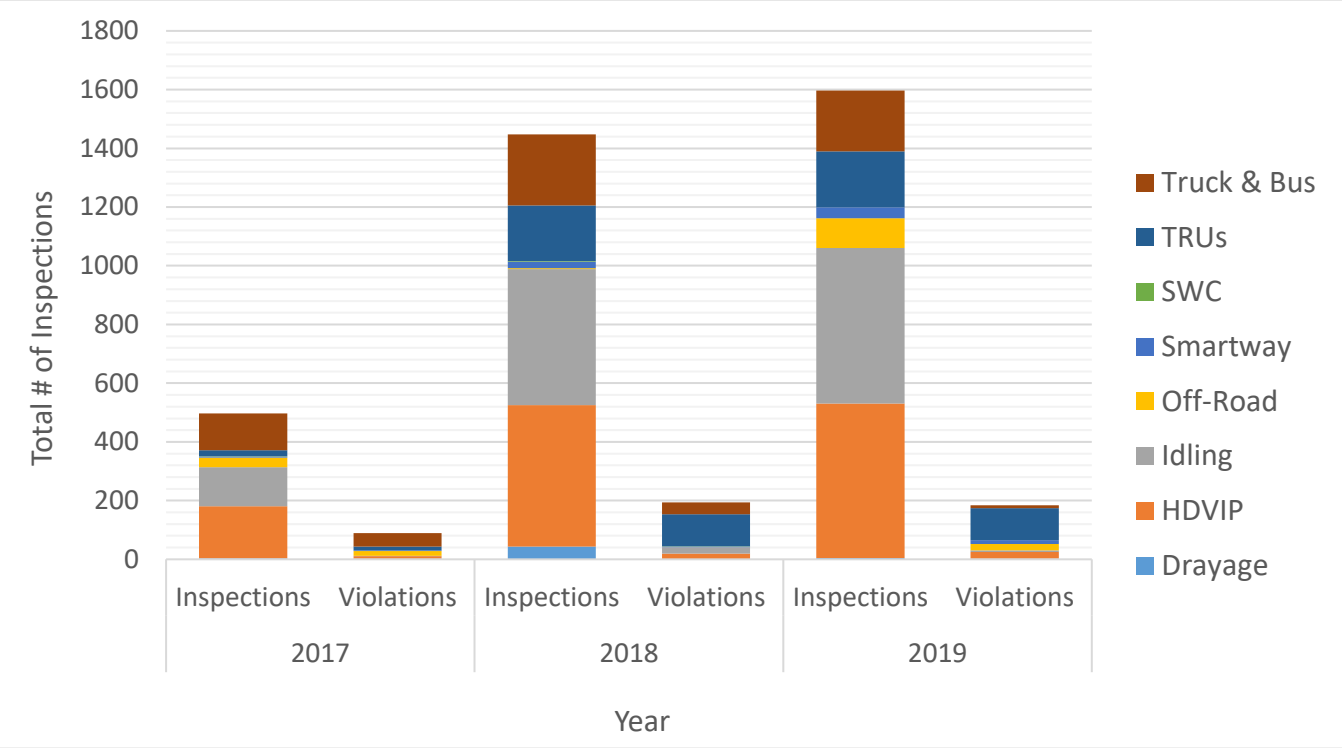


CARB Enforcement History in this Community

CARB's enforcement approach is two-pronged: ensuring compliance through robust, regular inspections and deterring violations through a 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. In railyards, CARB enforces regulations related to drayage trucks, transportation refrigeration units (TRUs), and cargo handling equipment. From the deterrence-side, CARB Enforcement encourages violators to support CARB's community-based projects program by setting aside a portion of penalties paid from enforcement action settlements for Supplemental Environmental Projects (SEPs).

As shown in Error! Reference source not found.below, CARB conducted over 3,500 HDDV inspections in the SELA community from 2017 to 2019[iii]. The overall compliance with CARB's regulations was 87 percent but varies annually[iv]. 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 467 citations in the SELA community, 343 of which were for emissions-related violations (i.e., violations that directly contribute to air pollution) and 124 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 SELA



Of the 1,126 heavy-duty trucks and buses and off-road equipment CARB observed idling in the SELA community over the past three years, all but 27 were in compliance with CARB's commercial vehicle, off-road equipment, and school bus idling rules (98% compliance overall). Reasons for a heavy-duty diesel truck to be compliant with the idling regulation can include idling for less than five minute 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 CARB's other 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

[iii] See Table 4-5 in Appendix 4 for more detailed breakdown of these heavy-duty diesel vehicle inspections in Southeast LA, Table 4-10 in Appendix 4 for a list of heavy-duty diesel vehicle inspections in Southeast LA, and Tables 4-6 through 4-9 in Appendix 4 for CARB inspections for other enforcement programs, including consumer products, fuels, and other vehicles and engines.

[iv] See Table 4-5 in Appendix 4 for CARB's 2017-2019 heavy-duty diesel vehicle enforcement history in Southeast LA

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 72 and 42 percent, respectively.

For some of CARB's regulations, enforcement staff have not yet conducted many enforcement activities within the community, however, CARB is enhancing enforcement efforts in this community to address community concerns, such as incorporating more comprehensive inspections into idling inspections as well as focusing on TRU and off-road vehicle inspections. These efforts will be explained in greater detail in the actions in Chapter 5.

In summary, due to the 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.

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 to inspect 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 **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. Inspector's from this team are assigned facilities within SELA.

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 SELA.

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 SELA.

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 SELA.

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, water treatment facilities, lead acid battery manufacturers, and chromium plating and anodizing shops. Inspectors in this team are assigned a geographic region, and regularly conduct compliance activities in SELA.

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.

*RECLAIM, is a program that 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 currently 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 HDVIP ensures vehicles are well-maintained in order to help keep air pollution low and meet engine and smoke opacity standards. In 2019, CARB tightened its smoke opacity standard so that almost any smoke coming out of a HDDV is a violation of the standard (smoke opacity must be less than five percent for diesel particulate filter-equipped vehicles). This program helps reduce particulate matter emissions and ensure vehicles engines and emissions controls are properly maintained.

Because diesel particulate matter is classified as a toxic air contaminant in California, CARB is also able to regulate emissions from diesel vehicles. CARB regulations now reduce emissions from all types of fleets, including trash trucks, trucks and buses owned by public agencies, the drayage trucks that carry cargo containers to and from ports and railyards, and most other trucks and buses over 14,000 pounds. As discussed earlier, most of these trucks and buses will be required to have 2010 or newer model year engines by the end of 2023 to operate legally in California to comply with CARB's Truck and Bus Regulation. In fact, in January 2020, the DMV began requiring compliance with the 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 SELA community. While marine rules do not directly affect the SELA community, they do affect the nearby marine ports and the vehicles which transport a significant amount of goods from those ports to SELA's railyards daily. Off-road construction equipment engines operate in the community and the cargo handling equipment that operates at SELA's railyards do as well. Also, TRUs (the small engines that keep goods in trucks cooled) are significant sources of diesel particulate matter for areas with cold storage warehouses. A few other important programs include our consumer products program, where CARB ensures the VOCs that contribute to smog formation are minimized in cleaners and other household goods through extensive statewide inspections. CARB also inspects fuels to make sure they meet fuel standards. Finally, CARB ensures commercial trucks and buses, school buses, and off-road construction equipment idle in compliance with the three corresponding regulations[v]. Please see Figure 4-6 below and Appendix 4 for more enforcement program descriptions.

[v] 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 4-6: CARB Enforcement Programs Relevant to the SELA Community

CARB ensures regulatory truck and bus **idling** limits are not exceeded.

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 EMY emission standards.

CARB leads **cargo handling equipment** investigations to identify opportunities to reduce emissions from equipment moving goods at ports and intermodal rail yards.

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 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).

CARB identifies potential violations through targeted enforcement and investigation of public complaints. CARB staff then contacts the responsible party to explain the enforcement process and to obtain additional information. Enforcement staff evaluate the information collected and work with CARB's Legal Office to determine violations of statutory and/or regulatory requirements. CARB staff can take enforcement action after substantiating violations, 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. CARB seeks penalties that provide adequate deterrence to future noncompliance or public nuisance, and to take away any economic benefit of noncompliance.

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.[vi]

During the settlement process, violators have the opportunity to allocate up to 50 percent of their penalties to a Supplemental Environmental Project (SEP).[vii] 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 4for 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 SELA 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:

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

CARB - Mobile Sources	South Coast AQMD - Stationary Sources
Automobiles, Trucks, Off-road Equipment, or other Vehicles	Odors, Smoke, Dust, or other Air Contaminants
Phone: 1-800-END-SMOG	Phone: 1-800-CUT-SMOG (1-800-288-7664)
Online: calepa.ca.gov/enforcement/complaints	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. This information helps inspectors conduct a thorough investigation and take appropriate enforcement action. The following information is valuable to a thorough complaint investigation:

- 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[viii]

Enforcement Considerations

An effective enforcement program must be flexible and adaptable to address the needs of the communities who 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 has therefore prioritized outreach and added new positions 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

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

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 NOVis. While NCs 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.[ix]

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.

[ix] Additional detail on South Coast AQMD, including the Hearing Board, and CARB enforcement actions can be found in Appendix 4.