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STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

STATE OF CALIFORNIA

Governor Arnold Schwarzenegger

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With special acknowledgement to the many State and Regional Water Board staff who contributed the information and examples in this report.

Acronyms

ACL	Administrative Civil Liability
CAA	State Water Pollution Cleanup and Abatement Account
Cal EPA	California Environmental Protection Agency
CAFO	Concentrated Animal Feeding Operations
CAO	Cleanup and Abatement Order
CDO	Cease and Desist Order
CIWQS	California Integrated Water Quality System
CSD	Community Services District
CTR	California Toxics Rule
CWA	Clean Water Act
DA	District Attorney
EO	Executive Officer
EPL	Expedited Payment Letter
ICC	International Code Council
LID	Low Impact Development
MMP	Mandatory Minimum Penalties
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
NPS	Non-Point Source
NOV	Notice of Violation
O&M	Operations & Maintenance
OE or Office	Office of Enforcement
PCS	Permit Compliance System
PY	Personnel Year
POTW	Publicly Owned Treatment Works
PUD	Public Utilities District
QA/QC	Quality Assurance/Quality Control
RCRA	Federal Resource, Conservation, and Recovery Act
SEP	Supplemental Environmental Project
SIC	Standard Industrial Classification
SIU	Special Investigations Unit

SMARTSStorm Water Multiple Application and Reporting Tracking System
SMCRA..... Surface Mining Control and Reclamation Act
SMR Self-Monitoring Report
SSMP..... Sewer System Management Plan
SSO Sanitary Sewer Overflow
TSO Time Schedule Order
US EPA.....U.S. Environmental Protection Agency
UST..... Underground Storage Tanks
Water Boards.....State and Regional Water Boards
WDRWaste Discharge Requirements
WOBEL Water Quality-Based Limitation
WWTPWastewater Treatment Plant

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Executive Summary

This annual enforcement report follows the [Baseline Enforcement Report](#) dated April 30, 2008 and the [Fiscal Year 2007-2008 Enforcement Report](#) dated April, 2009. This report describes the enforcement functions that support the Water Boards' five core regulatory programs and uses many of the performance measures described in the Baseline Enforcement Report. This report also includes a description of the enforcement activities of the Division of Water Rights.

This report, covering calendar year 2009, highlights the resources available for core regulatory program enforcement and the enforcement actions achieved with those resources. It illustrates some of the challenges faced by the Water Boards in bringing enforcement actions and provides an update on the status of the recommendations included in previous reports.

Table 1: 2009 Water Quality Enforcement Highlights¹

	2009	FY 2007- 2008	FY 2006- 2007
Regional Board enforcement staff:	62	64	78
Regional Board compliance staff:	82	94	96
State Board enforcement staff ² :	23	18	15
Number of regulated facilities:	39,704	39,692	41,156
Inspections conducted:	6,129	3,763	3,839
Violations documented:	12,378	15,177	9,801
Facilities with one or more violations:	2,733	2,970	2,527
Informal enforcement actions taken:	3,001	2,706	1,915
Formal enforcement actions taken:	303	283	180
Administrative Civil Liability actions:	174	106	107
Penalties assessed:	\$20 million	\$19 million	\$12 million
Violations receiving enforcement:	6,668	8,643	5,485

An examination of the information presented in this report demonstrates improvement in the quality of the data for some program areas, however, the Water Boards continue to face resource and data challenges.

The majority of the information in the tables and figures is generated from the Water Boards' [California Integrated Water Quality System](#) (CIWQS), which is a database containing information on the Water Boards' water quality programs. As with the Baseline Enforcement Report, some key data elements are either missing or incomplete for many of the core regulatory programs.

¹ This table only includes Water Quality related information. Water Rights Enforcement information can be found on pages 14-17.

² Does not include staff from the Division of Water Quality

Variation in data entry is apparent from region-to-region and a lack of data should not be interpreted as inactivity by some Regional Water Boards. During the reporting period, several important milestones were reached regarding improvements to CIWQS that will assist in enforcement reporting in the future. In particular, a limited number of program “modules” are being constructed which will tailor the information being collected to the “vocabulary” of the program resulting in a more logical approach to data entry and retrieval. The Office of Information Management and Analysis (OIMA), responsible for maintaining and updating the CIWQS database, has conducted several efforts to improve the quality and quantity of data. These efforts include the development of reports and the facilitation of data entry using customized “wizards”. Other efforts include data completeness and data quality analysis.

An outcome of the broader Water Board initiative to make CIWQS functional to meet internal and external data management needs is to provide useful data on compliance and enforcement activities to monitor, manage and improve its enforcement activities.

Measure Name	Measure Description
Self-Monitoring Report Evaluation	Number of self-monitoring reports due, received and reviewed and percentage of reports reviewed
Inspection Monitoring*	Number of inspections and percentage of facilities inspected
Compliance Rates*	The percentage of facilities in compliance based on the number of facilities evaluated
Enforcement Response*	Percentage of facilities in violation receiving an enforcement action requiring compliance
Enforcement Activities*	Number and type of enforcement actions
Penalties Assessed and Collected*	Amount of penalties assessed and collected, SEPs approved and injunctive relief
MMP Violations Addressed*	Number of facilities with MMP violations receiving a penalty at or above the minimum penalty assessed
Recidivism	Number and percentage of facilities returning to non-compliance for the same violation(s) addressed through an enforcement action
Environmental Benefits <i>(as a result of an enforcement action)</i>	Estimated pounds of pollutants reduced/removed through cleanup (soil or water), and wetlands/stream/beach/creek/river miles protected/restored (acres, etc.)

CIWQS currently supports reporting on six* of the nine performance measures described in the *Baseline Enforcement Report* and in this report.

For the measures not currently supported, information on self-monitoring reports will be reportable once the electronic self-monitoring report system is operational. Implementation of measures related to recidivism and environmental benefits is currently being evaluated, but will likely require modifications to both existing business processes and CIWQS.

Data for the Stormwater program (Construction and Industrial facilities) is now generated from a separate database named [SMARTS](#) (Stormwater Multi-Application, Reporting, and Tracking System).

Data for the Water Rights Enforcement Program is partially generated from the enhanced [Electronic Water Rights Information Management System](#) (eWRIMS) that contains information on water rights permits and licenses issued by the State Water Board.

The measures included in this report, along with measures of performance for our regulatory, financial assistance and basin planning programs, will be featured in the second annual *Water Boards' [Performance Report Card](#)*, and scheduled for release in September 2010.

Introduction

1. Introduction and Purpose of This Report

This Annual Enforcement Report provides a comprehensive summary of enforcement activities and performance measures for the Water Boards' core regulatory programs. This report continues the Water Boards' reporting efforts and builds on the information provided in prior year's reports.

Enforcement Activities are carried out at the Water Boards by Regional Water Boards and State Water Board program enforcement staff. The principal goal of enforcement is to encourage compliance.

The Water Boards' core regulatory efforts are intended to promote compliance through a set of integrated actions that include:

- Ensuring permits are enforceable
- Conducting inspections
- Reviewing discharger self monitoring reports
- Investigating complaints
- Addressing non-compliance with enforcement

The enforcement component of the core regulatory programs concentrates on:

- Documenting and tracking violations
- Initiating formal and informal enforcement actions
- Coordinating with law enforcement agencies
- Monitoring and reporting on the effectiveness of State and Regional Water Boards' actions.

Enforcement strategies available to the Water Boards range from informal to the formal. An informal enforcement action can be as simple as a phone call or email while formal actions may include Investigatory Orders, Cleanup and Abatement Orders, Cease and Desist Orders, and orders imposing Administrative Civil Liability among others. For the more formal actions, a hearing before a Regional Water Board will generally be necessary. The Water Quality [Enforcement Policy](#) dated February 19, 2002 and [updated](#) in November 17, 2009 establishes the framework for taking enforcement actions that are appropriate in relation to the nature and severity of the violations. Consistent use of formal enforcement actions to address the most serious violations is a fundamental goal of the Water Boards. In addition to the Water Boards' enforcement strategies under federal and state law, citizens may also

file suit against a discharger for alleged violations under the federal Clean Water Act, after notice has been given to the Regional Water Board of the intent to sue. A description of the Clean Water Act Citizen suit provisions is provided in Appendix 3.

This report has five purposes:

- Identify the resources available for core regulatory enforcement and the enforcement actions achieved with those resources.
- Summarize enforcement initiative accomplishments.
- Implement metrics to measure the effectiveness of the Water Boards' enforcement functions.
- Recommend improvements to the Water Boards' enforcement capabilities.
- Provide descriptive statistics on compliance and enforcement activities.

The core regulatory programs which are discussed in this report are:

- **National Pollutant Discharge Elimination System (NPDES) Wastewater Program**
Regulates the discharge of wastewater from point sources to surface waters (rivers, lakes, oceans, wetlands, etc), sewage spills and discharges of treated groundwater to surface water.
- **NPDES Stormwater Program**
Regulates pollution discharged from stormwater runoff. Pollution from construction and industrial sites is regulated under the stormwater construction and industrial program. Pollution from urban surface street stormwater runoff is regulated under the municipal stormwater program. Pollution from highways and roads is regulated under the statewide stormwater general permit for the California Department of Transportation (CALTRANS).
- **Wetlands and 401 Certification Program**
Regulates the dredging and disposal of sediments, filling of wetlands or waters, and any other modification of a water body.

- **Waste Discharge Requirements Program**
Regulates the discharge of wastewater from point sources to land and groundwater, waste generated from confined animal facilities (e.g., dairies, feedlots, stables, poultry farms) and all other pollution sources that can affect water quality not covered by other programs.
- **Land Disposal**
Regulates discharges of waste to land that need containment in order to protect water quality, including landfills, waste ponds, waste piles, and land treatment units.
- **Water Rights Enforcement**
The Division of Water Rights allocates Water Rights through a system of permits, licenses and registrations that grant individuals and others the right to beneficially use reasonable amounts of water.

Water quality can be affected by many sources. These sources can be categorized as point sources or nonpoint sources. Point source discharges are planned, easily identified "end-of-pipe" waste discharges from man-made conveyance systems (e.g., publicly owned treatment works, landfills) while nonpoint source discharges result from more diffuse sources such as agricultural or silviculture activities.

The Water Boards have broad authority to address virtually any discharge of waste that affects water quality. The tools that the Water Boards have to regulate discharges include the adoption of water quality control plans describing discharges and the issuance of Waste Discharge Requirements (permits) or NPDES permits for ongoing discharges. The Water Boards can also issue enforcement orders including cease and desist orders for an ongoing discharge, and cleanup and abatement orders to remediate the effects of a discharge. A listing of the tools available to the Water Boards to regulate discharges are included in Appendix 4 and provides a high level comparison of the key features of each tool.

Many of the Water Boards' regulatory tools, such as Waste Discharge Requirements, require dischargers to submit Self Monitoring Reports (SMRs) at varying frequencies to ensure that they are properly operating the facility and are in compliance with permit conditions.

While this *Annual Enforcement Report* focuses on the five core regulatory programs, it is important to note that the Water Boards also have the authority

to waive the requirement that a person file a report of waste discharge and/or be issued waste discharge requirements prior to initiating a discharge to surface waters not subject to federal NPDES regulations. The Water Boards use waivers to regulate types of discharges that are generally unregulated by all other states. Waivers may contain specific provisions such as requirements for monitoring, reporting, and corrective action if water quality becomes impaired. Discharges that comply with the conditions of a waiver are expected to pose a low threat to the quality of waters of the state. Dischargers that cannot comply with the waiver conditions must file a report of waste discharge. Regional Water Boards have used and enforced the waiver process differently for various types activities. Appendix 5 illustrates the variability and complexity of the existing waiver types and categories administered by the Regional Water Boards. Finally, in addition to the core regulatory programs and discharges related through waivers, the Water Boards also take enforcement actions related to other nonpoint sources of surface water and groundwater pollution, the regulation and remediation of underground storage tanks, the restoration of brownfields, and water rights.

The key enforcement reporting requirements that this report addresses include:

- Rates of compliance (*California Water Code Section 13225, subdivision (e)*) - requires each Regional Water Board to report [rates of compliance](#) for regulated facilities. In accordance with the "Implementation Plan Regarding Information Reporting Requirements for Regional Board Enforcement Outputs" (January, 2008) compliance rates will be reported in the *Annual Enforcement Report*)

Requirements not addressed in this report but covered elsewhere include:

- *California Water Code Section 13225, subdivision (k)* - requires each Regional Water Board, in consultation with the State Water Board, to identify and post on the Internet a summary list of all enforcement actions undertaken in that region and the disposition of each action, including any civil penalty assessed. *This list must be updated at least quarterly. See Appendix 6 for a links to this information for each Regional Water Board.*
- *California Water Code Section 13225, subdivision (k) and Section 13225, subdivision (e)* - In accordance with the "Implementation Plan Regarding Information Reporting Requirements for Regional Board Enforcement Outputs" (January, 2008) each Regional Water Board must post the information required by these sections on its website as a single table and update it quarterly. *See Appendix 6 for a links to this information for each Regional Water Board.*

- *California Water Code Section 13323, subdivision (e)* requires information related to hearing waivers and the imposition of [administrative civil liability](#), as proposed, to be imposed and as finally imposed, to be posted on the Internet. *See Appendix 6 for a links to this information for each Regional Water Board.*
- *California Water Code Section 13385, subdivision (o)* – requires the State Water Board to continuously [report](#) and update information on its website³, but at a minimum, annually on or before January 1, about its enforcement activities. The quarterly updated section 13385(o) report is available at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/ .

In Addition, the California Environmental Protection Agency (Cal/EPA) produces the [Consolidated Environmental Law Enforcement Report](#) reflecting annual activities. This effort meets Cal/EPA's statutory obligation under Government Code section 12812.2 to report on the status of the Cal/EPA enforcement program to ensure consistent, effective and coordinated environmental enforcement in the State of California.

³ <http://www.waterboards.ca.gov/>

Section 2

2. State Water Board Enforcement

The [Office of Enforcement \(OE\)](#) was formed in mid-2006 to emphasize the importance of enforcement as a key component of the Water Boards' core regulatory functions and statutory responsibilities. The role of the OE is to ensure that violations of State and Regional Water Board orders and permits result in firm, fair, and consistent enforcement through direct actions, the development of policies and guidance, and identification of metrics for decision-making on enforcement related issues.

Structure of the Office

OE reports to the State Water Board's executive director. It is comprised of legal and investigative staff. The investigative staff is divided into two units, the Special Investigations Unit (SIU) with nine staff and one student position, and the Underground Storage Tanks (UST) Enforcement Unit, which has four staff and one student. Consolidation of Water Board enforcement attorneys into the office began at the end of FY 2006/2007, with three attorneys. By the end of FY 2007/2008 the office was staffed with six attorneys. At the end of 2009 the Office of Enforcement had a total of 8 attorneys.

Functions of the Office of Enforcement

Direct Enforcement Actions

The office's attorneys work with regional prosecution staff to bring administrative enforcement cases before the State and Regional Water Boards, which include significant water quality enforcement cases and cases from programs that are carried out by the Regional Water Boards.

Referrals

OE is the primary legal contact point for criminal or civil enforcement actions for water quality violations referred by the Regional Water Boards to outside prosecutors such as the Attorney General's Office or district attorneys.

Enforcement Coordination

OE coordinates the monthly enforcement roundtables that include representatives of the nine Regional Water Boards and other enforcement partners such as US EPA and local prosecutors.

Policy Development

The Water Boards' Water Quality Enforcement Policy articulates enforcement expectations and priorities for the State and Regional Water Boards. On November 17, 2009, the State Board adopted the [2009 Water Quality Enforcement Policy](#).

Water Quality Enforcement Policy

On Nov. 17, 2009, the State Water Board adopted a revised [Water Quality Enforcement Policy](#). This policy revised the 2002 version. This revised version of the policy reflects substantial changes and improvements. Overall, the policy will allow the Water Boards' staff to use its limited resources in ways that openly address the greatest needs, deter harmful conduct, protect the public, and achieve maximum water quality benefits. Specifically, the policy includes:

- Prioritizes new violations by identifying the most considerable violations, and target limited enforcement resources to address the most serious violators;
- Calculates penalty methodology ensuring consistency in the determination of administrative liabilities imposed by the Water Boards statewide;
- Acknowledges the specific needs and limitations of POTWs and sewage collection systems that serve small communities, and clarifies the definition of "small communities" for mandatory minimum penalties;
- Limits on and clarifies the use of projects to offset penalty amounts;
- Requires timeframes for recording data on violations and enforcement actions, and for issuance of mandatory minimum penalties;
- Requires keeping the public informed of State and Regional Water Boards enforcement activities.

The policy was approved by the Office of Administrative Law on May 20, 2010.

Regional Water Board Assistance

The State Water Board's Special Investigations Unit (SIU), provides technical and investigative assistance to the Regional Water Boards staff on some of their cases.

Training OE staff work with the Water Board Training Academy to provide training on topics affecting enforcement statewide.

Legal Support Activities

During Fiscal Year 2007-2008 the legal staff of the Office of Enforcement was in transition. The OE began the fiscal year with three staff attorneys and ended with six staff attorneys. In 2009 the Office of Enforcement had 8 attorneys. The focus for these attorneys shifted during this year as the office reduced its efforts in water rights enforcement and, in coordination with the Office of Chief Counsel, began assuming responsibility for legal representation in all

administrative civil liability actions for core regulatory water quality violations in Regions 3, 6, 7, 8, and 9.

Special Investigations Unit (SIU)

SIU staff conducts investigations and assists with Regional Water Board investigations when additional resources and/or expertise are needed.

Operator Certification Program: The State Water Board enforces the laws and regulations governing waste water treatment plant (WWTP) operators. The Office of Operator Certification, within the Division of Financial Assistance, administers the WWTP operator certification program. The Special Investigations Unit (SIU) investigates potential cases of wrongdoing and takes enforcement action when warranted. Between, July 2008 and December 2009, SIU investigated approximately 45 WWTP operator certification cases. Of those, 27 were new cases.

SIU's investigations resulted in 15 informal enforcement actions, four formal disciplinary actions and two ACLs totaling \$20,000 ACL.

Statewide Policy on Supplemental Environmental Projects

In February 2009, the State Water Board adopted a [policy on Supplemental Environmental Projects \(SEP\)](#). SEPs are projects that enhance the beneficial use of water, provide a benefit to the public, and are not otherwise required of the discharger. The Water Boards may allow a discharger to satisfy part of an administrative civil liability by completing or funding a SEP. The SEP policy outlines the criteria under which a SEP may be used to offset penalties issued by a Water Board, establishes the general types of SEPs that are allowed, and provides for SEP tracking, oversight, auditing, and public reporting. The policy increases the accountability of the SEP proponents to complete the SEP. The policy also limits SEPs to no more than 50 percent of the total penalty amount, except in limited circumstances where there is compelling justification. This policy has been approved by the Office of Administrative Law.

Complaints – Citizen complaints not related to WWTP operator certification are referred to the appropriate regional board for investigation and follow-up. Under certain circumstances, the State Water Board leads or coordinates the investigation. SIU investigated three such complaints during this time period.

Assistance: SIU is asked by the Regional Boards to provide technical and investigative assistance on some of their cases. During this time period, SIU assisted the Regional Boards with 13 cases. As a result of these investigations, the Regional Boards have issued ACLs, CDOs and CAOs. ACLs totaled nearly \$3 million. SIU continues to assist the Regional Boards on pending cases, including ongoing assistance for many cases associated with the MMP Initiative.

Policies: In February 2009, the State Water Board adopted a Statewide [Policy on Supplemental Environmental Projects](#). In November 2009, the State Water Board adopted a revision of the Water Quality Enforcement Policy, which included substantial changes. On May 20, 2010 the [2009 Water Quality](#)

[Enforcement Policy](#) was approved by the Office of Administrative Law. As of May 20, 2010 the elements of this policy are binding on State and Regional Boards staff.

Other Activities: SIU assisted with the development and delivery of WWTP Training for regional water board staff, and for WWTP operators from Mexico. SIU continues to work on issues related to use of certified laboratory, and enforcement against other state agencies. In addition, SIU is responsible for routine coordination with the regional water boards on enforcement matters.

Underground Storage Tank (UST) Enforcement Unit

The UST Enforcement Unit conducts investigations about UST leak prevention, Cleanup Fund fraud, Tank Tester licensing, and cleanup remediation.

Underground Storage Tank Enforcement: The UST Enforcement Unit supports enforcement of the UST Leak Prevention and Cleanup Programs and the Cleanup Fund Program, primarily by investigating violations of UST construction, monitoring, and cleanup requirements, and by reviewing allegations of fraud against the UST Cleanup Fund. OE refers UST leak prevention and Cleanup Fund fraud matters to the Attorney General's Office or local prosecutors for action, because by statute, there is no administrative enforcement available.

- UST Leak Prevention – 13 matters (729 facilities)
 - Ongoing civil cases referred to AGO, DA, or Professional Geologist Board – 6
 - Assisted the AGO in a [case against Shell Oil Company](#) that resulted in a November 2009 judgment for \$19.5 million, of which \$5.1 million is slated to be paid to the State Water Board for penalties and costs.
- UST Cleanup Fund and Loans and Grants – 2 matters (44 Cleanup Fund claims)
 - Ongoing civil cases referred to the AGO – 1
 - New criminal cases referred to the AGO – 1
- Cleanup Remediation – 1 matter
 - Resulted in an ACL with a total value of \$35,000

UST Tank Tester Licensing Program (TTL): The State Water Board can take administrative enforcement action against licensed tank testers. There are approximately 150 licensed tank testers in California. These individuals test UST systems to verify that the systems are not leaking and are in compliance. Between July 1, 2008 and December 31, 2009, the UST

Enforcement Unit addressed 8 matters (51 facilities), which included 2 new referrals to the AGO.

Table 2: 2009 Summary of Office of Enforcement Actions

Program	Administrative Civil Liability Actions/ Settlements	Referral to Other Agency	Disciplinary Action	Penalty amount
Cleanup Remediation	1			\$35,000
UST Leak Prevention		6		\$5,100,000
UST Cleanup Fund and Loans and Grants		2		
UST Tank Tester Licensing		2		
Operator Certification	2		4	\$20,000
TOTAL	1	10	4	\$5,055,000

State Water Board Water Rights Enforcement Program

The State Water Board is the state agency with primary responsibility for the administration and regulation of water rights in California. The [Division of Water Rights](#) allocates water rights through a system of permits, licenses and registrations that grant individuals and others the right to beneficially use reasonable amounts of water. Water rights permits help to protect the environment and other water users from impacts that occur as a result of water diversions by including specific conditions restricting diversions. According to the State Water Board's water rights database system, there are 38,485 water right records throughout California. In addition, more water rights have been adjudicated by the courts, exempted by legislation, or are otherwise being exercised and not reported to the State Water Board.

The following table shows the number and type of water rights on file with the State Water Board:

Applications*:	431
Permits*:	1,519
Licenses*:	10,906
Small Domestic and Livestock Stockpond Registrations*:	749
Stockpond Certificates*:	5,305
Groundwater Extraction Claims:	6,070
Statements of Water Diversion and Use:	11,463
Federal Fillings:	1,974
Other Water Rights:	68
Total Water Rights:	38,485

* Of these, the State Water Board has authority over the applications, permits, licenses, registrations and certifications.

Water Rights Enforcement Program Organization and Resources

The [Division's Enforcement Program](#) is responsible for statewide water right compliance and enforcement and to implement the State Water Board's [Water Rights Policy](#). Currently, the Enforcement Program is comprised of three separate program areas:

- The [Licensing Program](#) focuses on ensuring reasonable beneficial use of water and checking compliance for the 1,519 permits. The unit has six full time staff of which 0.5 PY is dedicated to enforcement activities.

- The [Complaints Program](#) focuses on responding and analyzing approximately 45 complaints every year. Complaint allegations relate to unauthorized diversion and use of water, unreasonable or wasteful use of water, and impacts to public trust resources under all types of water rights. The unit has 4.8 staff of which 0.5 PY is dedicated to enforcement activities.
- The [Compliance Program](#) proactively conducts watershed-based investigations on permitted and licensed facilities and facilities that have no basis of right known by the State Water Board. The unit has six staff of which 5.5 PY is dedicated to enforcement.

All three programs initiate formal and informal enforcement actions to curtail illegal diversions and to protect prior rights and instream beneficial uses.

Compliance assurance with water rights requirements relies on reviewing of monitoring reports, conducting inspections and responding to complaints:

- Monitoring reports; The State Water Board requires water rights holders to complete and return self-monitoring reports including annual Progress Reports by Permittees and the Triennial Reports of Licensee. Special permit or license terms may also require submittal of special reports, such as those required to comply with water right Permit Terms 91 and 93. All self-monitoring reports are signed under penalty of perjury.
- Inspections; The State Water Board conducts compliance inspections and illegal diversion investigations in high resource-value watersheds including those containing threatened and endangered species. The State Water Board selects targeted watersheds annually based, in part, on recommendations from the Regional Water Quality Control Boards, the Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. For each target watershed, State Water Board staff develops a project priority list based on diversion quantity, special terms, or potential violations gleaned from self-monitoring reports and existing facilities without known water rights. During a five-year study period of compliance inspections from 1998 to 2003, the State Water Board determined that 38 percent of inspected facilities were in violation of water right requirements. Another 11 percent of facilities were subject to revocation or partial revocation of their water rights due to non-use of water. Thus, almost 50 percent of the inspected facilities were in violation of their water right.
- Complaints; The State Water Board relies on local residents, other agencies, and other interested persons to help them identify potential water right violations. Information regarding an actual or potential unauthorized activity is often obtained through a formal written complaint filed by the

public or by another public agency. Complaints may be based on allegations that a diversion of water is in violation of permit or license terms or conditions, is without basis of right, constitutes a misuse of water (i.e., a waste or unreasonable use of water or unreasonable method of diversion), or adversely affects public trust resources in an unreasonable manner.

As a result of Senate Bill 8 (SBX7 8), which was passed by the Legislature in 2009, the State Water Board is authorized to increase its Water Right Enforcement resources by 25 PYs. The Division is in the process of hiring for these new positions and at the same time is restructuring its Enforcement Program.

Water Rights Enforcement Program Outputs

All three enforcement programs initiate formal and informal enforcement actions to curtail illegal diversions and to protect prior rights and in stream beneficial uses. The following table shows the number and type of enforcement actions taken by the State Water Board Division of Water Rights during calendar year 2009.

Table 3: Water Rights Enforcement Actions for Calendar Year 2009

Enforcement Action Type	PROGRAM			Total
	LICENSING	COMPLIANCE	COMPLAINTS	
Oral Communication	4	-	-	4
Staff Enforcement Action	32	432	10	474
Notice of Violation	-	-	-	-
Permit and License Revocation Orders Issued	30	22	-	52
Cease and Desist Order	-	7	1	8
Administrative Civil Liability	-	4	-	4
Referral to Other Agency	-	-	-	-
Formal Referral to Attorney General	-	-	-	-
Settlement Court Order	-	-	-	-
TOTAL	66	465	11	542

The next table summarizes the basic statistics regarding the resources, the activities and actions taken by the three enforcement programs in the Division of Water Rights during calendar year 2009.

Table 4: Water Rights Enforcement Summary Statistics for 2009.

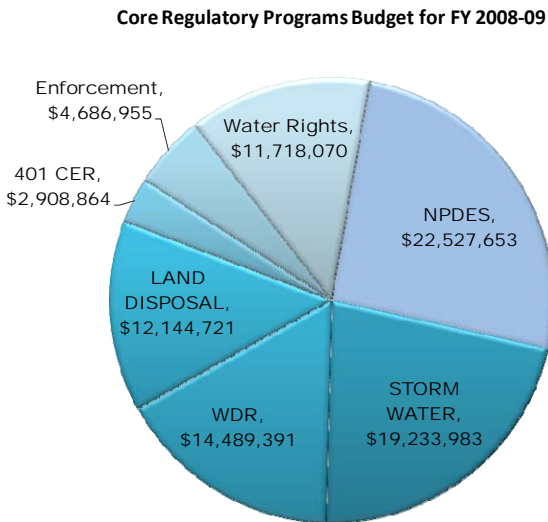
WATER RIGHTS Enforcement Program Area	LICENSING	COMPLIANCE	COMPLAINTS	TOTAL WATER RIGHTS
Regulated Universe	1,634	10,906	11,611	24,151
Enforcement Section PYs (09/10)	6.0	6.0	4.8	16.8
Enforcement Budget (09/10)	\$ 936,172	\$ 895,759	\$ 684,999	\$ 2,516,930
Enforcement Dedicated Resources (PYs)	0.5	5.5	0.5	6.5
Permits/PYs	272	1,818	2,419	1,438
Permits/Enforcement PYs	3,268	1,983	23,222	3,716
Monitoring Reports Reviewed	1,319	2,053	762	4,134
Field Inspections Conducted	26	104	14	144
Violations * (not including report violations)	412	2,928	3,147	6,487
Violations for Reports Not Submitted	304	1,321	1,143	2,768
Priority or Chronic Noncompliance Problems	72	293	315	679
Violations Found by Inspection	36	36	9	81
Priority Violations Detected	2	11	5	18
Enforcement Actions Taken	66	465	11	542
Formal Actions (Revocations, ACLs & CDOs)	30	33	1	64
Informal Actions	36	432	10	478
Cases Closed	46	328	33	407
Cease and Desist Orders	0	7	1	8
Administrative Civil Liability	0	4	0	4
Penalties Assessed	\$ -	\$ 33,980	\$ -	\$ 33,980
Enforcement Response: % of Violations with Enforcement	9%	11%	0%	6%
Water Rights Compliance Rate	56%	61%	63%	62%

* The number of non-reporting violations is estimated.

Section 3

3. Compliance and Enforcement Resources at the Water Boards (Inputs)

Most compliance, investigation and enforcement activities are performed at the nine Regional Water Boards.



The inputs⁴ or resources for water quality protection support many activities from planning and permitting, to taking eventual enforcement. Compliance with WDRs, Water Quality Control Plan prohibitions, enforcement orders and other regulatory tools administered by the Water Boards can be determined through a review of discharger SMRs, compliance inspections, facility reporting, complaints and file reviews. Compliance and enforcement activities can

require a high level of specialization and skill to document inspections, identify violations, prepare enforcement cases, and present expert testimony at hearings. Inspectors at the Water Boards ensure that requirements are complied with, review discharger's SMRs, and document violations in the databases. Once violations are identified and documented, they are prioritized for enforcement. Cases are developed with advice and assistance from the Water Boards' staff counsels.

The Regional Water Boards have approximately 144 (176 during FY 07-08 and 174 during previous FY 06-07) staff dedicated to compliance and enforcement activities statewide during FY 2008-09.

The State Water Board's Office of Enforcement had 23 staff dedicated for special investigations and enforcement during Fiscal Year 2008-2009 (18 during FY 07-08 and 15 in FY 06-07). These staff included a team of eight prosecutors assisting Water Board staff with their enforcement cases.

⁴ The data on resources provided in this report is for the last completed fiscal year budget information, FY 2008-2009. The rest of the data presented in the report is for calendar year 2009. The dedicated enforcement budget displayed in figure does not include the enforcement resources available from each program.

Compliance activities are also supported by student assistants who review SMRs, and US EPA contractors conducting inspections.

The following tables present estimates, provided by the Regional Water Boards, of compliance and enforcement personnel in Fiscal Year 2008-2009.

The table below shows regional water board resources devoted to activities to ensure compliance with regulatory requirements and includes routine compliance inspections, review of required water quality monitoring reports, and recording violations and other information in the California Integrated Water Quality System (CIWQS) database.

Table 5: FY 2008-2009 Estimates of Regional Water Boards' Compliance Determination Personnel by Program

Region	NPDES	STORM WATER	WDR	LAND DISPOSAL	401 Cert	TOTAL
	PY	PY	PY	PY	PY	PY
Region 1	0.5	1.9	1.6	1.5	0.1	5.60
Region 2	2.1	3.4	0.6	0.5	0.7	7.30
Region 3	2.5	3	4.2	1	0.1	10.80
Region 4	2.5	6	1	1	0	10.50
Region 5	3.7	4.4	2.8	9.9	0	20.80
Region 6	0.2	0.3	1	2.1	0	3.60
Region 7	2	1.9	1	1	0.4	6.30
Region 8	3	7.1	0.4	2.4	0.1	13.00
Region 9	0.8	2	0.9	0.3	0.05	4.05
Total	17.30	30.00	13.50	19.70	1.45	81.95

PY= Person Year

The table below shows Regional Water Board resources for enforcement activities. These are activities taken in response to violations or related to specific compliance problems.

Table 6: FY 2008-2009 Estimates of Regional Water Boards' Enforcement Personnel by Program

Region	NPDES	STORM WATER	WDR	LAND DISPOSAL	401 Cert	TOTAL
	PY	PY	PY	PY	PY	PY
Region 1	1.8	0.5	0.7	0.1	0.1	3.20
Region 2	3.8	2	0.4	0.9	0.3	7.40
Region 3	1.5	1	3.5	0.1	0.1	6.20
Region 4	3.5	1.4	0.3	0.1	0.1	5.40
Region 5	4.1	3.6	3.5	10.9	0.1	22.20
Region 6	0.4	1.5	2.3	0.1	0	4.30
Region 7	1	0.2	1.6	0.1	0	2.90
Region 8	4.2	3.3	0	0.3	0.2	8.00
Region 9	0.7	1.3	0.5	0.1	0.05	2.65
Total	21.00	14.80	12.80	12.70	0.95	62.25

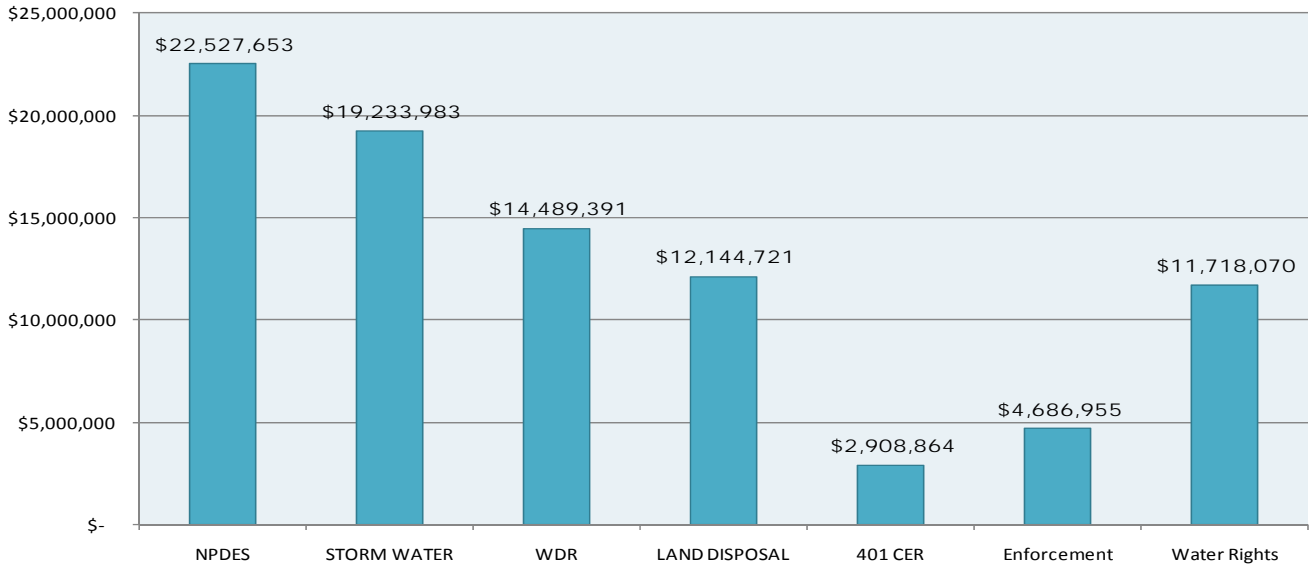
PY= Person Year

Both Tables 2 and 3 show significant variation in the resources available between regions and individual programs within those regions.

Within each program and Regional Water Board, the weight of compliance and enforcement activities varies significantly. In general, variation in the level of resources committed to these types of activities can be partially explained by the maturity of the programs: a more mature and developed program would generally focus fewer resources in permitting and new regulation and more resources on compliance activities (this is not the case for all programs). A program with more compliance problems would likely be spending more resources for enforcement.

The distribution of dedicated compliance and enforcement resources and the workload, or average number of permitted facilities assigned for every compliance and enforcement staff, also varies significantly among regions and programs. Figure 1 shows the variation in the distribution of resources by program type. This expenditures include both enforcement and non-enforcement activities.

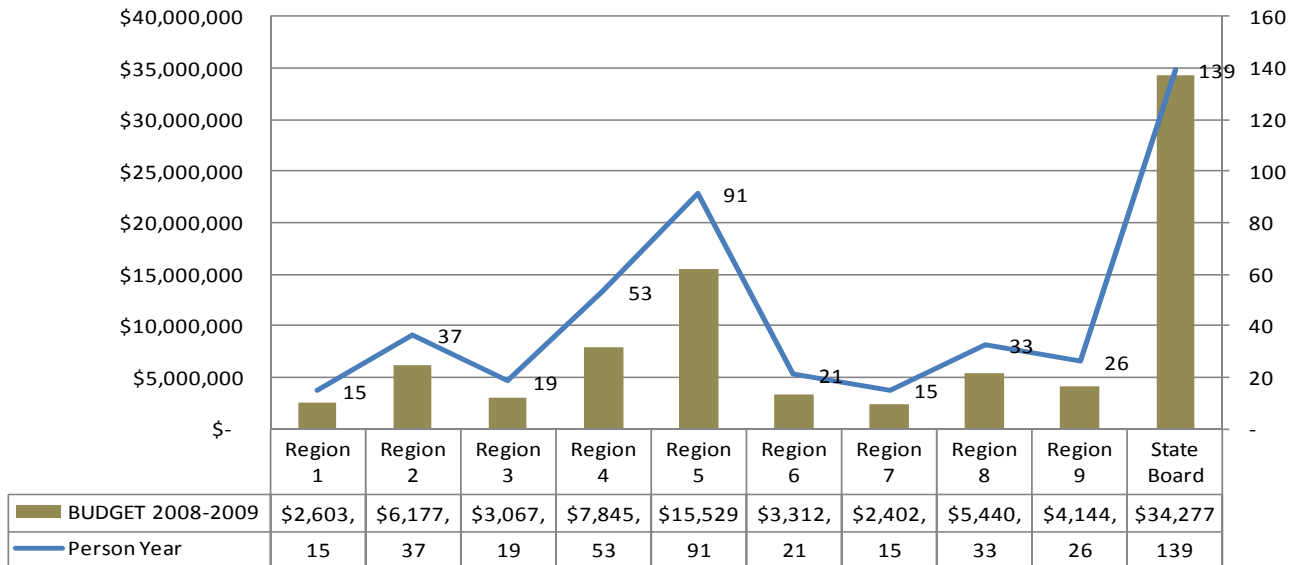
Figure 1: Core Reg. Programs Expenditures



*The enforcement column reflects only those enforcement resources specifically authorized through the Governors budget as Budget Change Proposals

The distribution of resources not only varies by program but there are significant differences among Regional Board offices as shown in Figure 2. The State Water Board devotes its resources primarily to the development and adoption of statewide standards and policies, general permits, and statewide plans, issuance of water quality control plans in areas of statewide significance, and approval of regional water quality control plans

Figure 2: Core Regulatory Programs Budget by Region



Section 4

4. Compliance and Enforcement Outputs by the Regional Water Boards

Compliance and enforcement program output measures typically describe what is produced by the core regulatory program inputs. These outputs reflect the compliance workload, complaints reviewed, SMRs reviewed, compliance inspections conducted, and the violations discovered and recorded in the Water Boards' data systems. They also reflect the enforcement actions taken in these regulatory programs.

The tables in Section 4 reveals the significant differences among Regional Water Boards in facilities regulated and inspected, violations detected and enforcement actions taken. This variation reflects the regional differences in watersheds, geography, and demographics. For example, regions with large urbanized areas (San Francisco Bay, Los Angeles, and Santa Ana) have most of the NPDES wastewater and stormwater facilities, reflecting the large populations in these areas, land development, and higher land use costs resulting in discharges directly to streams, rivers, lakes, and the ocean. Similarly, the majority of the facilities regulated with WDR are in Region 5 (Central Valley Regional Board) reflecting the large geographic area of this region, its largely rural nature, and that more of these discharges are directly to land instead of to surface waters. Where a particular facility is regulated by multiple programs, that facility will be counted in each applicable table.

Violations vary from not submitting monitoring reports on time to acute toxicity violations. The Water Boards identify priority violations based on criteria identified in the [2009 Water Quality Enforcement Policy](#)⁵. A priority violation represents a greater threat to water quality than other violations.

In many instances, multiple violations are covered by a single enforcement action. Likewise, there may be several enforcement actions taken in response to a single violation, such as issuance of an initial letter or notice of violation, followed by a cleanup order and a separate penalty action.

The Water Boards have a variety of enforcement tools available. Enforcement actions taken as a result of a violation include informal and formal actions. An informal enforcement action is any enforcement action taken by Water Board staff that is not defined in statute, such as staff letters and notices of violation.

⁵ The 2009 Water Quality Enforcement Policy was approved by the Office of Administrative Law on May 20, 2010.

The relatively low number of informal enforcement actions recorded in CIWQS and presented in this report may not accurately represent the level of effort spent by staff in performing these activities. Formal enforcement actions are statutorily recognized actions to address a violation or threatened violation such as Cleanup and Abatement Orders and assessment of penalties. The term "Receiving Enforcement" used in the tables in this Section includes both informal and formal actions taken to address documented violations.

The 2009 Water Quality Enforcement Policy guides staff in selecting the appropriate level of enforcement response that properly addresses violations and recommends the use of progressive enforcement. The policy describes progressive enforcement as "an escalating series of actions that allows for the efficient and effective use of enforcement resources". Depending on the nature and severity of the violation, an informal enforcement action such as a warning letter to a violator, or a more formal enforcement action, including orders requiring corrective action within a particular time frame, may be taken. In other instances, enforcement staff may use more informal tools, such as a phone call or a staff enforcement letter for compliance assistance. The different enforcement options are described in Appendix 1.

Historically the Water Boards have not tracked informal activities in their database systems because of lack of dedicated resources to data entry. The 2009 Water Quality Enforcement Policy requires the Water Boards to carefully track the outcomes of both informal and formal enforcement actions to provide a more comprehensive picture of all enforcement activities.

It is important to note that these tables are based on data available in the CIWQS database. While the CIWQS database was deployed in mid-2005, the Water Boards continue to work on the quality and completeness of the data, as well as the functionality and reporting capabilities of the database. Because of these limitations, inconsistencies and apparent deficiencies in the data presented in this report do not necessarily reflect inconsistencies in the enforcement program statewide.

NPDES Wastewater Program Outputs

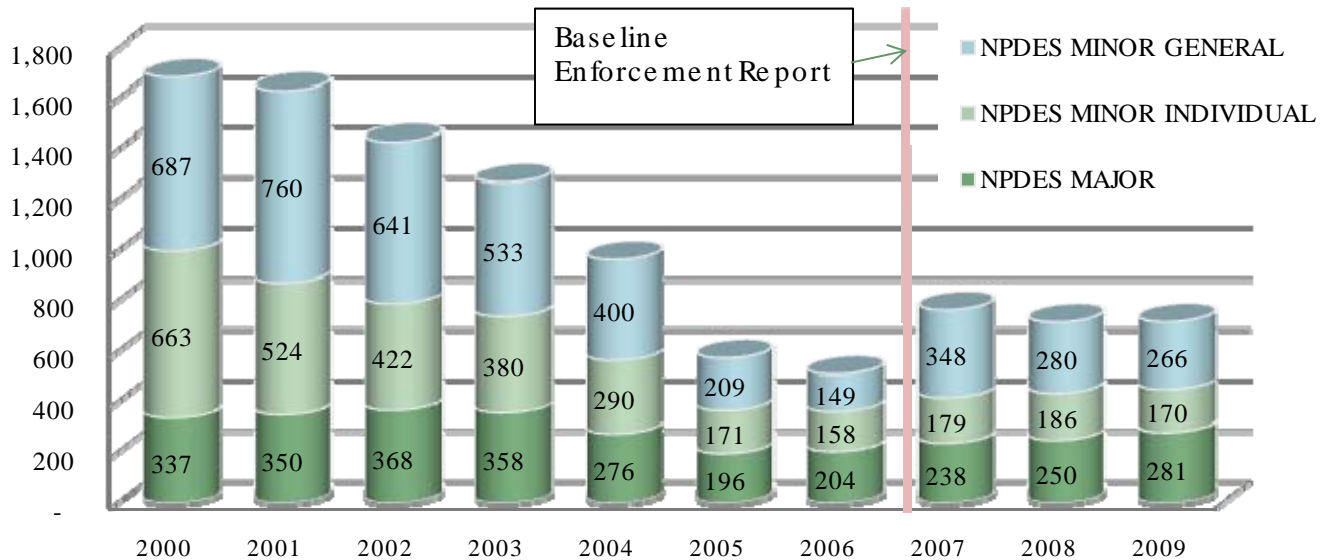
Compliance Assurance Outputs

More than 14,800 self monitoring reports are received annually by the Regional Water Boards to comply with the NPDES wastewater program requirements. SMRs are submitted with different frequencies. Most dischargers submit quarterly and annual reports. Major dischargers for the NPDES program may be also required to submit monthly reports. All regulated facilities must submit, at a minimum, an annual report. For Year 2009 the CIWQS database was not capable of tracking monitoring reports due, received and reviewed for the programs described in this report. Therefore, at this time it is not possible to produce statistics about the SMRs. It is also important to mention that the majority of the violations identified in this report have been detected through the manual review of SMRs.

Inspections conducted are tracked in the CIWQS database and for the NPDES wastewater program, 614 facilities were inspected during Year 2009.

Figure 3: NPDES Inspection Trends 2000-2009

Inspections by Year



According to the 2006 NPDES Memorandum of Agreement between US EPA (Region 9) and the Water Boards, inspection frequencies are as follows: All major dischargers will be inspected at least once a year. Minor dischargers

generally will be inspected once a year, as resources allow, but no less than once during the five-year permit cycle. The following chart displays the trends in the number of inspections conducted from FY 2000-2001. For the NPDES program, some of the inspections are conducted by contractors under supervision from US EPA Region 9.

The following tables display the total number of inspections conducted by each Regional Water Board for major and minor NPDES facilities.

Table 7: NPDES Wastewater, Major Facilities, Inspections in 2009

NPDES Major	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	11	11	12	92%
Region 2	77	57	56	102%
Region 3	17	14	23	61%
Region 4	47	37	45	82%
<i>Region 5 Fresno</i>	7	6	7	86%
<i>Region 5 Redding</i>	16	11	13	85%
<i>Region 5 Sacramento</i>	43	31	36	86%
Region 5 TOTAL	66	48	56	86%
<i>Region 6 Tahoe</i>	-	-	1	0%
<i>Region 6 Victorville</i>	1	1	2	50%
Region 6 TOTAL	1	1	3	33%
Region 7	12	8	8	100%
Region 8	23	15	21	71%
Region 9	30	28	38	74%
Total	284	219	262	84%

The percentage of facilities inspected for each region differs significantly depending on whether the facility is a major discharger, a minor discharger under an individual permit or a minor discharger enrolled in a general permit.

Table 8: NPDES Wastewater, Minor Individually Regulated Facilities, Inspections in 2009

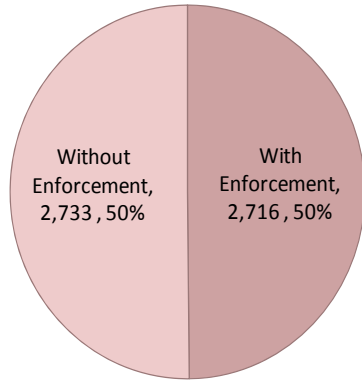
NPDES Minor	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	33	29	32	91%
Region 2	15	15	30	50%
Region 3	11	9	18	50%
Region 4	24	19	78	24%
<i>Region 5 Fresno</i>	12	12	22	55%
<i>Region 5 Redding</i>	11	9	51	18%
<i>Region 5 Sacramento</i>	31	28	55	51%
Region 5	54	49	128	38%
<i>Region 6 Tahoe</i>	-	-	4	0%
<i>Region 6 Victorville</i>	6	5	5	100%
Region 6	6	5	9	56%
Region 7	1	1	18	6%
Region 8	17	16	13	123%
Region 9	7	7	19	37%
Total	168	150	345	43%

Table 9: NPDES Wastewater, Minor Facilities Enrolled Under a General permit, Inspections in 2009

NPDES General	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	2	1	13	8%
Region 2	6	4	185	2%
Region 3	2	2	70	3%
Region 4	167	152	421	36%
<i>Region 5 Fresno</i>	-	-	18	0%
<i>Region 5 Redding</i>	1	1	25	4%
<i>Region 5 Sacramento</i>	-	-	100	0%
Region 5	1	1	143	1%
<i>Region 6 Tahoe</i>	-	-	7	0%
<i>Region 6 Victorville</i>	-	-	9	0%
Region 6	-	-	16	0%
Region 7	30	30	40	75%
Region 8	58	55	327	17%
Region 9	-	-	74	0%
Total	266	245	1,289	19%

Figure 4: NPDES Enforcement Response

Statewide, ENFORCEMENT RESPONSE NPDES Violations Receiving Enforcement in 2009



Approximately 84% of major NPDES facilities and 43% of minor individual NPDES facilities were inspected in 2009.

The Water Boards Enforcement Policy establishes the criteria for prioritizing enforcement actions against violations. The following tables include the total number of violations, the priority violations and the number receiving any level of enforcement and reveal the large variability in the number

of violations and enforcement actions.

Table 10: MAJOR NPDES Dischargers: Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	12	77	10	13%	38	5	13%
2	56	63	51	81%	18	15	83%
3	23	120	66	55%	41	19	46%
4	45	269	101	38%	40	3	8%
5F	7	19	15	79%	3	3	100%
5R	13	14	13	93%	-	-	
5S	36	1,236	1,063	86%	1,101	977	89%
5 Total	56	1,269	1,091	86%	1,104	980	89%
6A	1	93	-	0%	93	-	0%
6B	2	13	3	23%	4	3	75%
6 Total	3	106	3	3%	97	3	3%
7	8	95	95	100%	64	64	100%
8	21	1	-	0%	-	-	
9	38	-	-		-	-	
Totals	262	2,000	1,417	71%	1,402	1,089	78%

Table 11: MINOR Individual NPDES Dischargers: Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	32	65	10	15%	11	7	64%
2	30	40	40	100%	6	6	100%
3	18	10	-	0%	1	-	0%
4	78	326	131	40%	170	97	57%
5F	22	109	8	7%	32	-	0%
5R	51	97	84	87%	21	21	100%
5S	55	1,071	730	68%	773	577	75%
5 Total	128	1,277	822	64%	826	598	72%
6A	4	3	-	0%	-	-	
6B	5	21	17	81%	2	2	100%
6 Total	9	24	17	71%	2	2	100%
7	18	78	71	91%	35	35	100%
8	13	1	-	0%	-	-	
9	19	6	3	50%	3	3	100%
Totals	345	1,827	1,094	60%	1,054	748	71%

Not all documented violations during 2009 received an enforcement action. Approximately 50% of all NPDES violations received some level of enforcement.

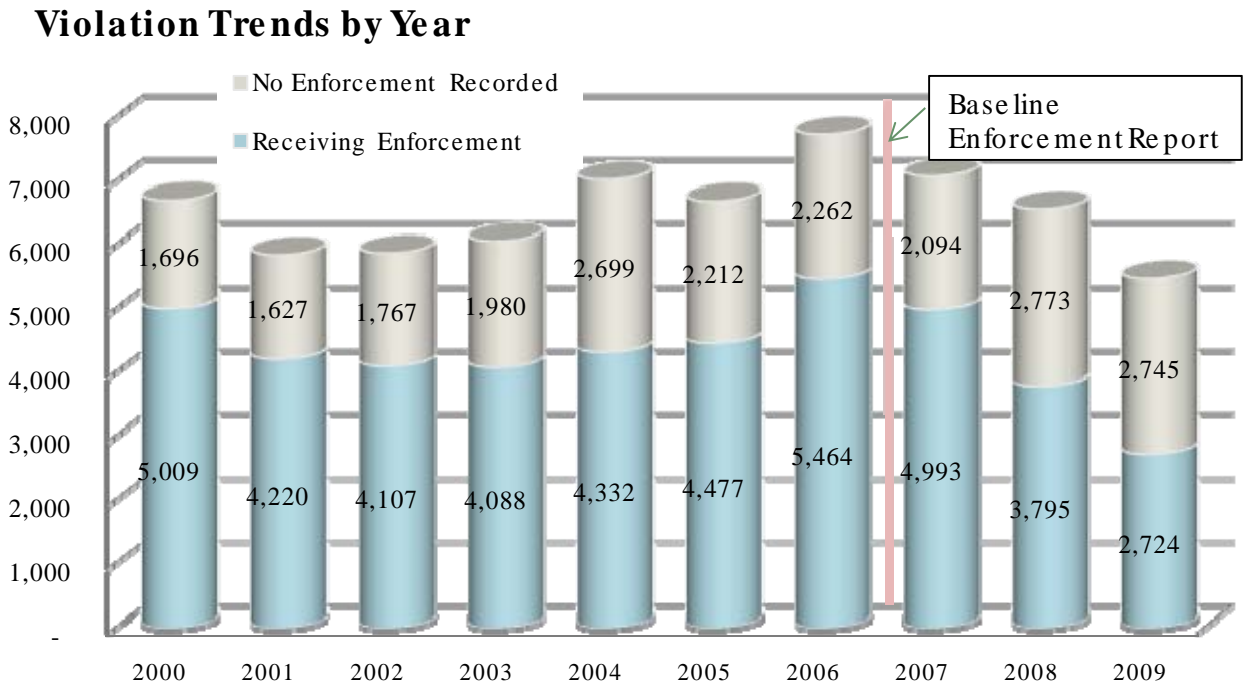
The reasons for this variability include differences in facility-specific requirements, differences in Regional Water Board office processes and priority assigned to report review and data entry, differing rates of compliance among dischargers, and the redirection of resources to address other program needs.

Table 12: MINOR General NPDES Dischargers: Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	13	-	-		-	-	
2	185	37	18	49%	6	5	83%
3	70	10	6	60%	4	-	0%
4	421	1,068	63	6%	276	21	8%
5F	18	1	1	100%	-	-	
5R	25	2	2	100%	-	-	
5S	100	447	88	20%	446	88	20%
5 Total	143	450	91	20%	446	88	20%
6A	7	6	-	0%	1	-	0%
6B	9	-	-		-	-	
6 Total	16	6	-	0%	1	-	0%
7	40	-	-		-	-	
8	327	49	27	55%	-	-	
9	74	2	-	0%	2	-	0%
Totals	1,289	1,622	205	13%	735	114	16%

As shown in Figure 5, trends in the number of violations receiving and not receiving both formal and informal enforcement for the entire NPDES wastewater program have remained somewhat constant since violation data was collected. The upward trend may be explained due to better violation documentation in the Water Boards' databases. Also, the percentage of violations receiving enforcement remained around 65% during this period.

Figure 5: NPDES Wastewater Violations Trends 2000-2009



Enforcement Action Outputs

The following tables list the number of enforcement actions taken by the Regional Water Boards listed from informal to more formal, during Year 2009.

Table 13: NPDES Wastewater MAJOR Facilities, Enforcement Actions for Year 2009

Enforcement CATEGORY	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter	1				1	1				28		1	32
	Oral Communication		9	12			5							26
	Notice of Violation	2	1			4		40						47
	Expedited Payment Letter		4	5										9
COMPLIANCE ACTIONS	13267 Letter													-
	Clean-up and Abatement Order		2											2
	Time Schedule Order							3		5	1	1		10
	Cease and Desist Order		2					3						5
PENALTY ACTIONS	Stipulated Penalty				1									1
	Admin Civil Liability	3	8	5	6		3	21		2		1		49
TOTAL	TOTAL	6	26	22	7	5	9	67	0	0	35	1	3	180

Under the NPDES wastewater program, there were no actions recorded in CIWQS for the following enforcement action types: referral to other agency, and formal referral to Attorney General.

Table 14: NPDES Wastewater MINOR Individual Facilities, Enforcement Actions for Year 2009

Enforcement CATEGORY	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter				1	3	1				35			40
	Oral Communication		2				2							4
	Notice of Violation		2			3	10	24		1				40
	Expedited Payment Letter				3									3
COMPLIANCE ACTIONS	13267 Letter													-
	Clean-up and Abatement Order													-
	Time Schedule Order								1		1	10		12
	Cease and Desist Order				2				2			4		8
PENALTY ACTIONS	Stipulated Penalty													
	Admin Civil Liability	2		1	15	6	5	14			5	2	1	51
TOTAL	TOTAL	2	4	6	16	12	18	40	1	1	41	16	1	158

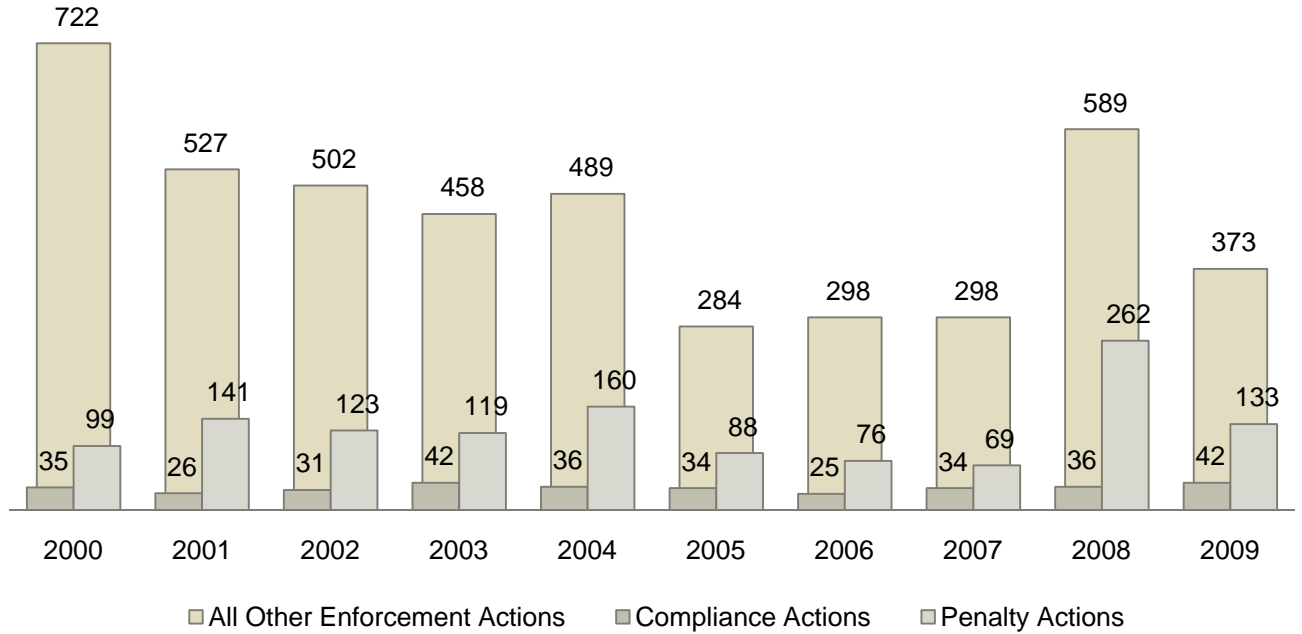
Table 15: NPDES Wastewater MINOR General Facilities, Enforcement Actions for Year 2009

Enforcement CATEGORY	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter	1				1				1	2	16	1	22
	Oral Communication					1	5					1	1	8
	Notice of Violation			1	9	1	2	70		1		10		94
	Expedited Payment Letter		22		14									36
COMPLIANCE ACTIONS	13267 Letter													-
	Clean-up and Abatement Order													-
	Time Schedule Order												1	1
	Cease and Desist Order				2				1					3
PENALTY ACTIONS	Stipulated Penalty													
	Admin Civil Liability	2	3		18			3					4	30
TOTAL	TOTAL	3	25	3	41	3	7	73	1	2	2	27	7	194

The number of enforcement actions has fluctuated significantly since 2000, both in numbers and in the type of enforcement actions taken. Informal actions remain at high levels. The number of Administrative Civil Liabilities (penalty actions) in 2009 has increased substantially compared to the actions issued in 2005, 2006 and 2007, however, still not approaching levels seen during

2008. The high number of penalty actions issued in 2008 is, in part, as a result of the [2008 Statewide Initiative for Mandatory Minimum Penalty enforcement](#).

Figure 6: NPDES Wastewater Enforcement Actions Trends



NPDES Stormwater Program Outputs

Compliance Assurance Outputs

More than 9,000 SMRs are received every year by the Regional Water Boards to comply with the industrial storm water program requirements⁶. Monitoring reports are submitted annually or as specified in the permit requirements. For Year 2009 the [SMARTS](#)⁷ database is now capable of tracking monitoring reports due, received and reviewed for the Stormwater Industrial program.

Table 16: Stormwater Industrial: Annual Monitoring Reports for Reporting Period 2008-2009⁸

Regional Board Office	Annual Monitoring Reports Due for FY 2008-2009 (Due date: July 1, 2009)	Reports Fully Submitted	Reports Reviewed	FACILITIES REGULATED	% Reports Fully Submitted
Region 1	429	333	328	355	78%
Region 2	1,691	1,304	1,303	1,339	77%
Region 3	450	371	369	392	82%
Region 4	3,460	2,570	2,486	2,815	74%
<i>Region 5 Fresno</i>	713	496	493	556	70%
<i>Region 5 Redding</i>	244	191	188	183	78%
<i>Region 5 Sacramento</i>	1,434	1,150	1,131	1,150	80%
Region 5	2,391	1,837	1,812	1,889	77%
<i>Region 6 Tahoe</i>	46	17	17	44	37%
<i>Region 6 Victorville</i>	205	137	136	173	67%
Region 6	251	154	153	217	61%
Region 7	213	153	153	162	72%
Region 8	2,060	1,543	1,525	1,552	75%
Region 9	971	721	681	755	74%
Total	11,916	8,986	8,810	9,476	75%

Inspections conducted are now tracked in the [SMARTS](#) database. For the Stormwater Program 3,025 facilities were inspected in 2009 (1,535 during Fiscal Year 2007-2008). The following chart displays the trends in the number of inspections conducted since 2000⁹.

⁶ At the time of this report, entities regulated under the construction stormwater permit were not required to submit monitoring reports

⁷ SMARTS: Stormwater Multi-Application, Reporting, and Tracking System

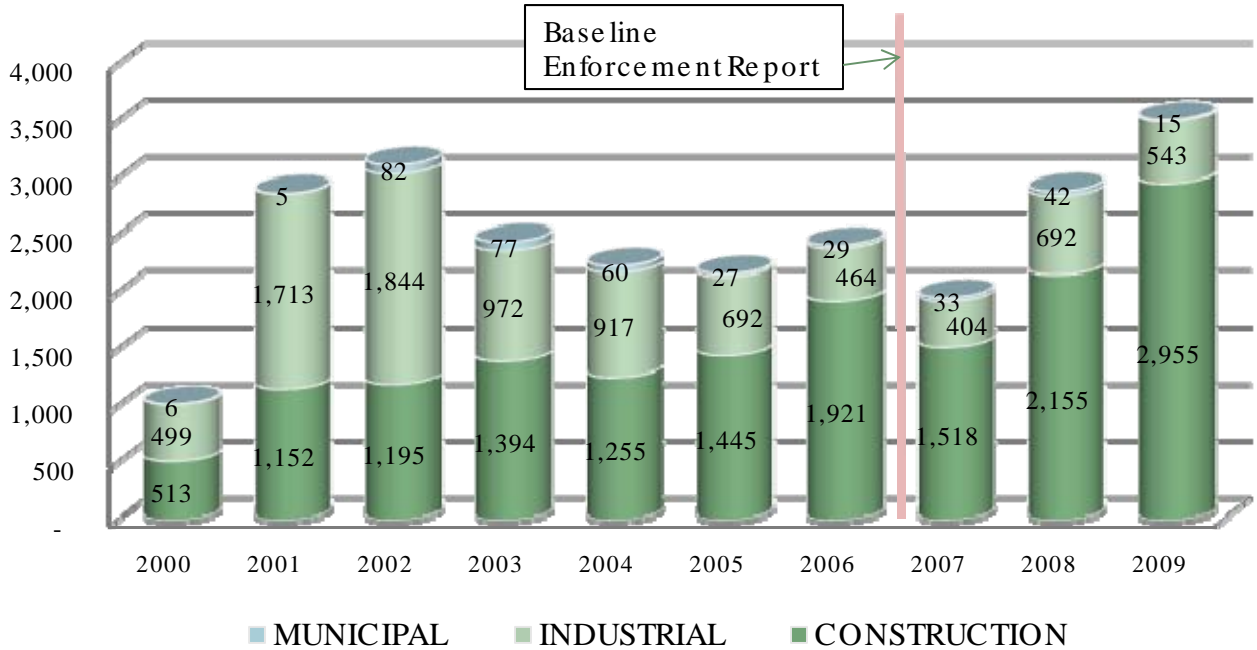
⁸ This report is available at

<http://smarts.waterboards.ca.gov/smarts/faces/Reports/SwReportsMenu.jsp>

⁹ *This figure does not reflect the approximately 9,000 inspections conducted by the Los Angeles Regional Water Board that had not been entered into CIWQS.

Figure 7: Stormwater Inspections Trends

Inspections by Year



The NPDES stormwater program regulates three types of dischargers: industrial activities, construction activities and municipal (phases I and II). Information for construction and industrial facilities is presented in tables 15, 16, 17, 18, 19 and 20. Tables 23 and 24 summarize the information for municipal stormwater dischargers.

Table 17: NPDES Stormwater Industrial Inspections in 2009

SW IND	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	31	28	355	8%
Region 2	60	53	1,339	4%
Region 3	3	3	392	1%
Region 4	152	148	2,815	5%
Region 5 Fresno	4	4	556	1%
Region 5 Redding	18	16	183	9%
Region 5 Sacramento	34	33	1,150	3%
Region 5	56	53	1,889	3%
Region 6 Tahoe	6	3	44	7%
Region 6 Victorville	12	12	173	7%
Region 6	18	15	217	7%
Region 7	2	1	162	1%
Region 8	228	197	1,552	13%
Region 9	5	5	755	1%
Total	555	503	9,476	5%

The percentage of facilities inspected for each region and for each discharger type varies. Note that multiple inspections may be conducted at a single facility.

Table 18: NPDES Stormwater Construction Inspections in 2009

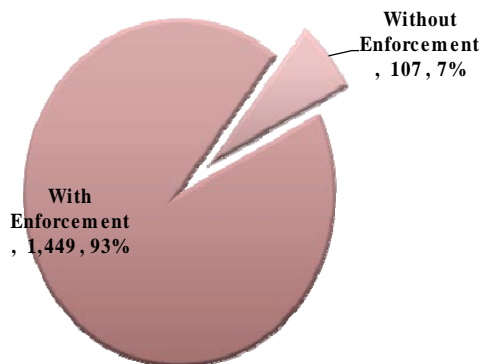
SW CONST	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	108	84	348	24%
Region 2	88	77	1,607	5%
Region 3	6	5	785	1%
Region 4	373	366	2,539	14%
<i>Region 5 Fresno</i>	40	27	1,113	2%
<i>Region 5 Redding</i>	60	52	375	14%
<i>Region 5 Sacramento</i>	587	410	2,153	19%
Region 5	687	489	3,641	13%
<i>Region 6 Tahoe</i>	14	14	116	12%
<i>Region 6 Victorville</i>	17	8	692	1%
Region 6	31	22	808	3%
Region 7	123	88	546	16%
Region 8	1,526	1,344	2,500	54%
Region 9	13	9	2,124	0%
Total	2,955	2,484	14,898	17%

The percentage of facilities inspected is low compared to the number of facilities regulated. This can be explained by the large number of facilities regulated under the program. The stormwater program has an active inspection program and conducts the most inspections of the five core regulatory programs.

Storm water violations and violations receiving one or more enforcement actions are shown in the tables below. Most of the violations noted are reporting violations.

Figure 8: Stormwater Enforcement Response

Statewide, ENFORCEMENT RESPONSE STORMWATER
Violations Receiving Enforcement in 2009



Most non-reporting violations in the storm water program are discovered through site inspections.

This situation differs from violations at NPDES facilities where the majority of discharge violations are found through a review of SMRs submitted by the dischargers. This difference in recorded violations reflects the difference in how NPDES wastewater and stormwater sites are regulated. While

wastewater sites are largely regulated through self-monitoring to ensure compliance with specific effluent limits, stormwater sites are regulated to ensure that sediment and other potential contaminants are prevented from leaving these sites through proper on-site controls. Ensuring that these controls are adequate for the nearly 25,000 permitted stormwater permittees would require a large field presence.

The stormwater program does not consistently use the priority flag for violations recorded in the CIWQS database. For this reason the following tables do not include the priority columns. The Water Quality Enforcement Policy specifies that most of the common reporting violations should be considered priority violations for storm water sites.

Table 19: Stormwater Industrial Enforcement Response in 2009

Industrial Stormwater	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	355	67	64	96%
Region 2	1,339	132	125	95%
Region 3	392	47	47	100%
Region 4	2,815	68	60	88%
Region 5 Fresno	556	-	-	
Region 5 Redding	183	57	56	98%
Region 5 Sacramento	1,150	504	502	100%
Region 5 Total	1,889	561	558	99%
Region 6 Tahoe	44	4	2	50%
Region 6 Victorville	173	2	-	0%
Region 6 Total	217	6	2	33%
Region 7	162	36	36	100%
Region 8	1,552	155	136	88%
Region 9	755	60	57	95%
Totals	9,476	1,132	1,085	96%

* Data from SMARTS

Although violation recording may have been affected by the implementation of the new database, the number of violations remained constant and the percentage of violations receiving enforcement remained above 90% since 2000.

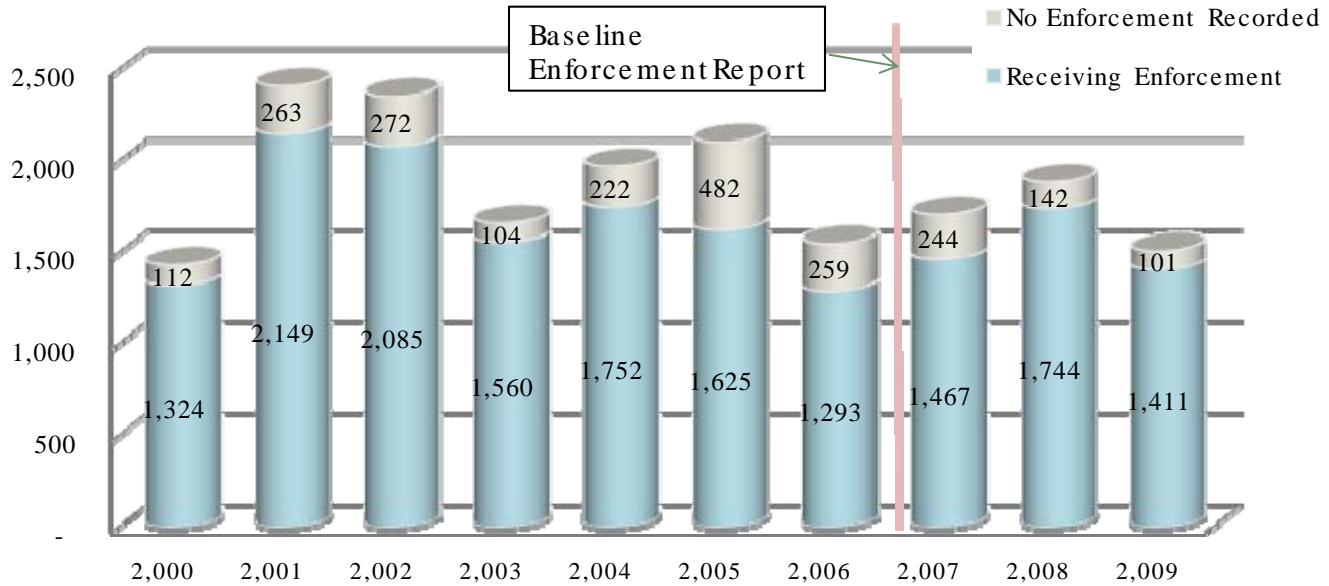
Table 20: Stormwater Construction Enforcement Response in 2009

Construction Stormwater	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	348	10	2	20%
Region 2	1,607	41	40	98%
Region 3	785	-	-	
Region 4	2,539	38	28	74%
Region 5 Fresno	1,113	6	3	50%
Region 5 Redding	375	9	9	100%
Region 5 Sacramento	2,153	190	178	94%
Region 5 Total	3,641	205	190	93%
Region 6 Tahoe	116	3	-	0%
Region 6 Victorville	692	-	-	
Region 6 Total	808	3	-	0%
Region 7	546	-	-	
Region 8	2,500	73	57	78%
Region 9	2,124	10	9	90%
Totals	14,898	380	326	86%

* Data from SMARTS

Figure 9: NPDES Stormwater Violations Trends

Violations by Year



Enforcement Action Outputs

Tables 21, 22 and 23 lists the number of enforcement actions taken by the Regional Water Boards ranked from informal to more formal during 2009.

Table 21: STORMWATER Industrial Enforcement Actions for Year 2009

Enforcement CATEGORY	Enforcement Action TYPE	Regional Board										Total		
		1	2	3	4	5F	5R	5S	6A	6B	7		8	9
ALL OTHER ACTIONS	Staff Enforcement Letter					36	56	295			4	31	4	426
	Oral Communication	1										16		17
	Notice to Comply				7									7
	Notice of Violation	3	43		26	26	28	1	2			1	60	190
	Notice of Stormwater Noncompliance	63	120	47	1		28	14					127	400
	1st NNC - AR	3			109			203			32	23		370
	2nd NNC - AR	3						51				6		60
	Expedited Payment Letter		62		12									74
COMPLIANCE ACTIONS	13267 Letter													-
	Clean-up and Abatement Order													-
	Cease and Desist Order													-
PENALTY	Admin Civil Liability	4	4		1						2	4	15	
TOTAL	TOTAL	77	229	47	156	62	112	564	2	0	36	206	68	1,559

There were no actions recorded for the following enforcement action types: time schedule order and cease and desist order.

Table 22: STORMWATER Construction Enforcement Actions for Year 2009

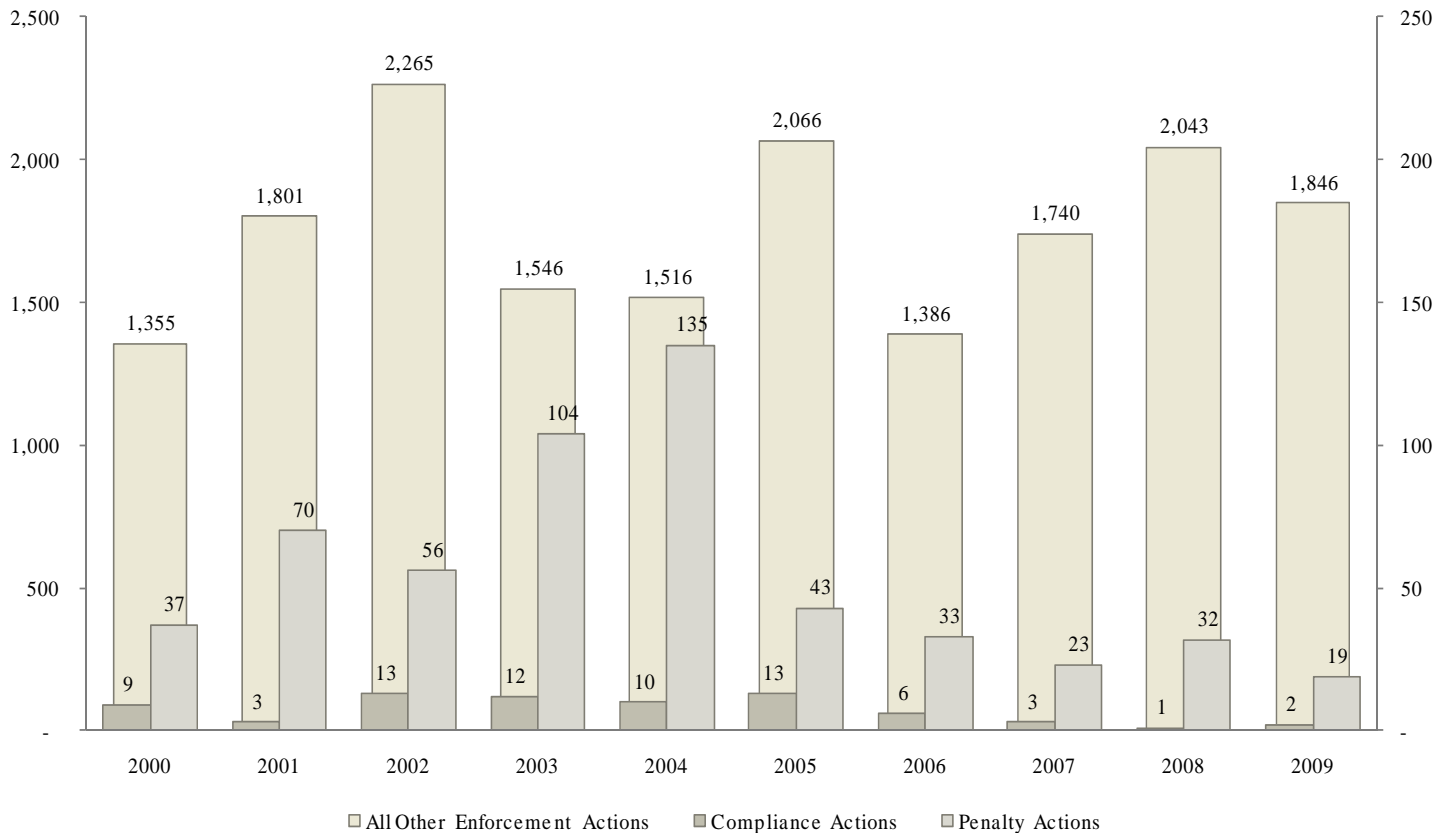
Enforcement CATEGORY	Enforcement Action TYPE	Regional Board										Total		
		1	2	3	4	5F	5R	5S	6A	6B	7		8	9
ALL OTHER ACTIONS	Staff Enforcement Letter					1	1					12	3	17
	Oral Communication						6	88				14		108
	Notice to Comply		15		9									24
	Notice of Violation	2	37		7	4	3	34		1		1		89
	Notice of Stormwater Noncompliance							9						9
	1st NNC - AR													-
	2nd NNC - AR													-
	Expedited Payment Letter													-
COMPLIANCE ACTIONS	13267 Letter													-
	Clean-up and Abatement Order					1		1						2
	Cease and Desist Order													-
PENALTY	Admin Civil Liability					1	1	1					3	
TOTAL	TOTAL	2	52	0	16	7	11	133	0	1	0	27	3	252

Table 23: STORMWATER Municipal Enforcement Actions in 2009

Enforcement CATEGORY	Enforcement Action TYPE	Regional Board											Total			
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9		
ALL OTHER ACTIONS	Staff Enforcement Letter										1					1
	Oral Communication									2			1			3
	Notice of Violation			1	11	2	1		1						2	18
	Notice of Stormwater Noncompliance								1							1
COMPLIANCE ACTIONS	13267 Letter															-
	Clean-up and Abatement Order															-
	Time Schedule Order															-
	Cease and Desist Order															-
PENALTY ACTIONS	Stipulated Penalty															
	Admin Civil Liability					1									1	2
TOTAL	TOTAL	0	1	11	3	1	0	4	0	1	0	1	3	25		

The enforcement efforts for the stormwater program have remained at fairly constant levels as shown in Figure 10.

Figure 10: NPDES Stormwater (Construction and Industrial only) Enforcement Actions Trends



This Annual Enforcement Report provides detail on the categories of stormwater regulation. This year's report displays stormwater program information for three categories of dischargers: municipal, construction and industrial. The Municipal Storm Water Permitting Program (regulating storm water discharges from municipal separate storm sewer systems or MS4s) is divided into two phases. Under [Phase I](#), the Regional Water Quality Control Boards have adopted National Pollutant Discharge Elimination System General Permit (NPDES) storm water permits for medium (serving between 100,000 and 250,000 people) and large (serving 250,000 people) municipalities. Most of these permits are issued to a group of co-permittees encompassing an entire metropolitan area. As part of [Phase II](#), the State Water Resources Control Board regulates smaller municipalities, including non-traditional Small MS4s, which are governmental facilities such as military bases, public campuses, and prison and hospital complexes.

Table 24: Municipal Stormwater MS4 Compliance and Enforcement Outputs in 2009

MUNICIPAL STORMWATER MS4	No. of Facilities* Phase I	No. of Facilities* Phase II	Facilities* Audited	Violations		
				Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	9	12	12	-	-	
Region 2	73	26	6	9	4	44%
Region 3	3	23	1	15	14	93%
Region 4	100		1	33	33	100%
Region 5 Fresno	8	17	-	-	-	
Region 5 Redding	2	3	1	-	-	
Region 5 Sacramento	22	44	-	1	1	100%
Region 5 Total	32	64	1	1	1	100%
Region 6 Tahoe	11	2	1	3	1	33%
Region 6 Victorville	1	4	1	-	-	
Region 6 Total	12	6	2	3	1	33%
Region 7	15		-	-	-	
Region 8	72		3	1	1	100%
Region 9	76		12	11	4	36%
Totals	392	131	38	73	58	79%

* Data from CIWQS and information provided by program managers. The term facilities includes co-permittees, enrollees and other entities.

Compliance assessment relies on audits that evaluate the activities conducted to comply with the permit requirements. Audits may be conducted directly by

a Regional Water Board or by a third party under contract with USEPA and in cooperation with a Regional Water Board. Audits are not required under the Clean Water Act, though the US EPA Office of Compliance and Enforcement Assurance did establish a 5-year audit frequency as a performance measure for 2005-07. No consistent source of funding source has been identified at the State or federal levels to conduct audits. As a result, audits have only been conducted when and where resources are available.

401 Certification Program Outputs

Compliance Outputs

For the 401 Certification Program, 161 facilities were reported as inspected during 2009. The 401 Certification Program does not yet use CIWQS consistently and the data provided is only current for some Regional Water Boards.

Tables 25 and 26 shows the total number of 401 certifications issued during 2009, the number of inspections conducted and the number of violations detected based on information provided by program managers and recorded in CIWQS.

Table 25: 401 Certification Facilities, Inspections 2009

401 CER	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED*	% Facilities Inspected
Region 1*	52	25	510	5%
Region 2	7	4	825	0%
Region 3*	16	16	420	4%
Region 4*	50	50	417	12%
<i>Region 5 Fresno</i>	35	21	148	14%
<i>Region 5 Redding</i>	33	23	425	5%
<i>Region 5 Sacramento</i>	-	-	944	0%
Region 5	68	44	1,517	3%
<i>Region 6 Tahoe</i>	10	6	167	4%
<i>Region 6 Victorville</i>	6	6	33	18%
Region 6	16	12	200	6%
Region 7	-	-	94	0%
Region 8	8	8	552	1%
Region 9	2	2	324	1%
Total	219	161	4,859	3%

*Data provided by regional program managers and not currently in CIWQS

Table 26 shows that there were few documented inspections conducted at the 4,859 active facilities in the program for the reporting period (inspections were recorded for fewer than 4% of the active facilities) . However, where 401 certification violations were documented in CIWQS, 59% received enforcement.

Table 26: 401 Certification Compliance and Enforcement Outputs 2009

401 CER	No. of "Active" Facilities (certifications issued 2005- 2009) *	Facilities Inspected	Violations		
			Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1 *	510	25	10	7	70%
Region 2	825	4	3	1	33%
Region 3 *	420	16	5-	4-	80%
Region 4 *	417	~50	10-	6-	60%
Region 5 Fresno	148	21	11	6	55%
Region 5 Redding	425	23	8	8	100%
Region 5 Sacramento	944	-	-	-	
Region 5 Total	1,517	44	19	14	74%
Region 6 Tahoe	167	6	11	2	18%
Region 6 Victorville	33	6	2	-	0%
Region 6 Total	200	12	13	2	15%
Region 7	94	-	-	-	
Region 8	552	8	2	-	0%
Region 9	324	2	12	10	83%
Totals	4,859	161	74	44	59%

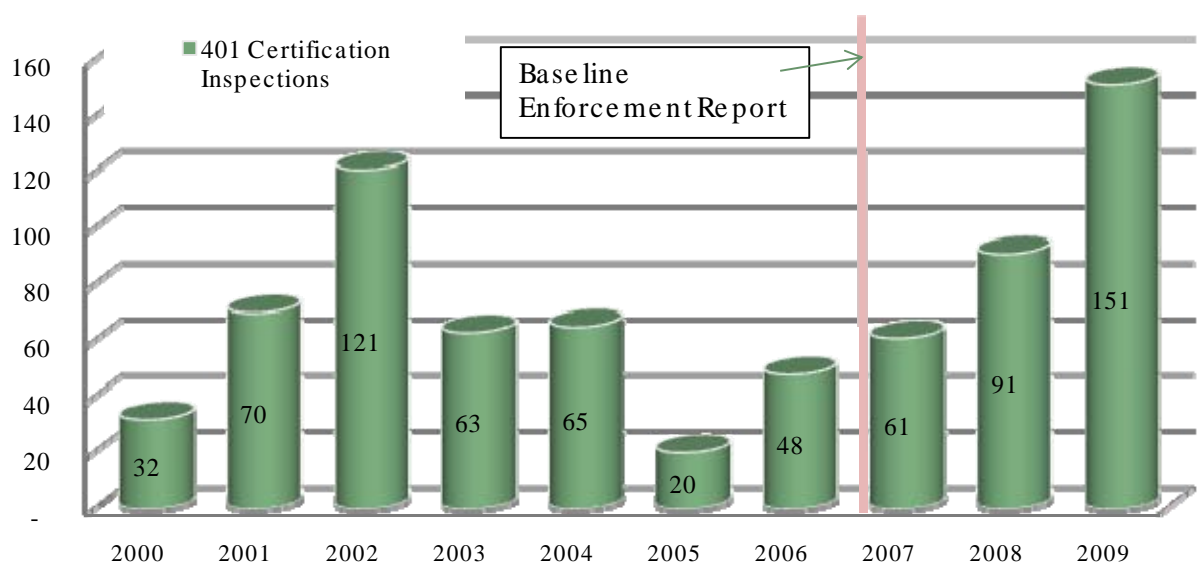
* Data is not from CIWQS. From the State Water Board 401 database and from 401 program managers.

Figure 11 shows the trends in the number of inspections conducted since 2000.

Trends in the number of violations receiving and not receiving enforcement for the 401 Certification Program has fluctuated since 2000 as shown in Figure 12.

Figure 11: 401 Certification, Inspections 2000-2009

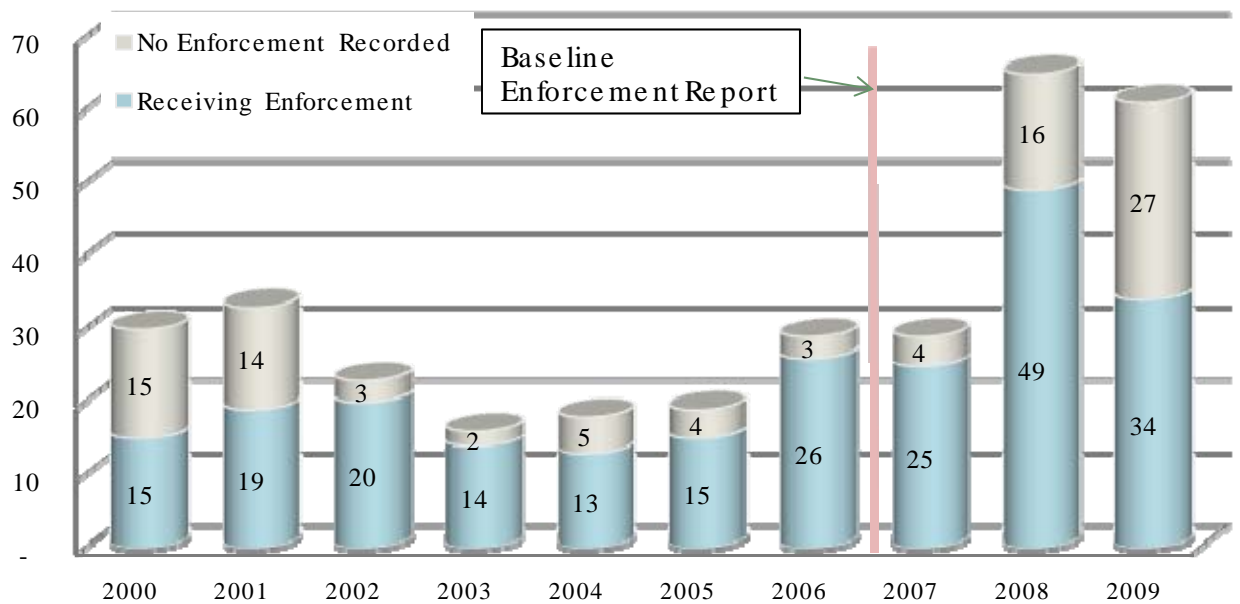
Inspections by Year



* Data only from CIWQS

Figure 12: 401 Certification, Violations 2000-2009

Violations by Year



* Data only from CIWQS

Enforcement Action Outputs

Table 275 lists the number of enforcement actions taken by the Regional Water Boards as provided by the 401 program managers, ranked from informal to more formal, in 2009.

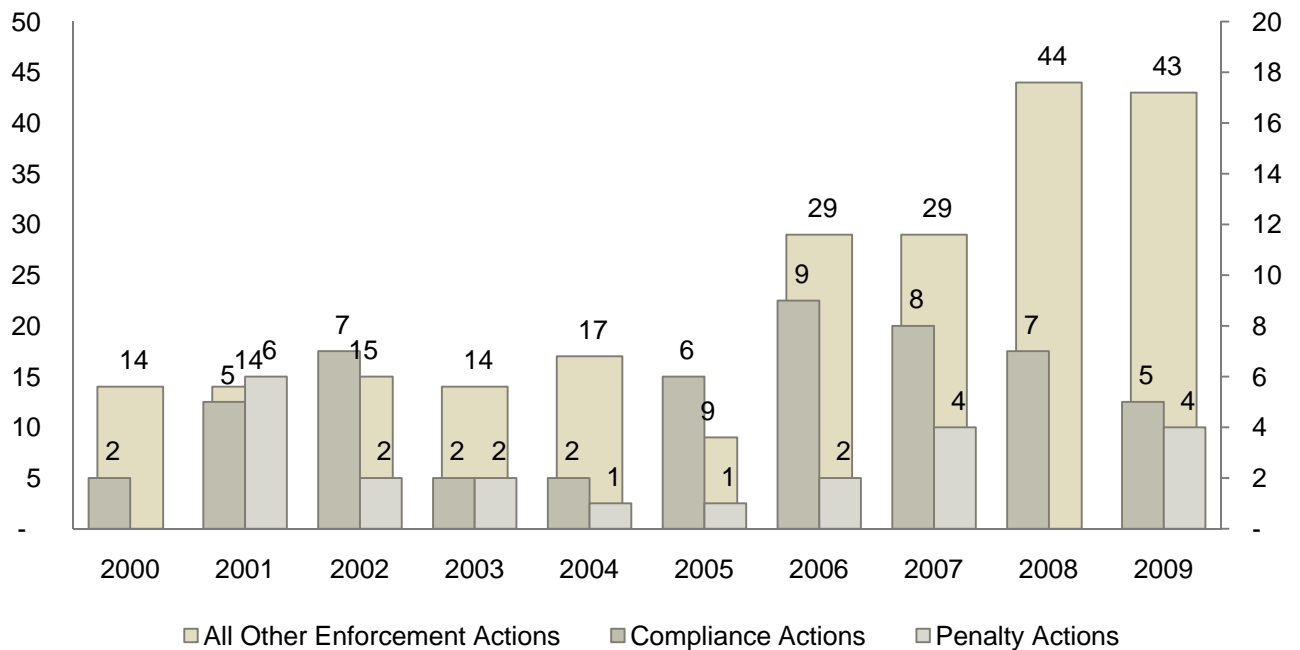
Table 27: 401 CERTIFICATION PROGRAM Enforcement Actions in 2009

Enforcement CATEGORY	Enforcement Action TYPE	Regional Board											Total			
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9		
ALL OTHER ACTIONS	Staff Enforcement Letter					6	3					4				13
	Oral Communication					1	1					1				3
	Notice of Violation	5	2			6	4		1			2	6			26
	Expedited Payment Letter															-
COMPLIANCE ACTIONS	13267 Letter															-
	Clean-up and Abatement Order				1	1			1			1	1			5
	Waste Discharge Requirements															-
	Cease and Desist Order															-
PENALTY ACTIONS	Settlement - Court Order														1	1
	Admin Civil Liability	2					1									3
TOTAL	TOTAL	7	2	0	1	15	8	0	2	0	0	8	8			51

*Data only from CIWQS

Figure 13 shows enforcement actions issued under the 401 Certification program since 2000.

Figure 13: 401 Certification, Enforcement Actions Trends



* Data only from CIWQS

Waste Discharge Requirements (WDR) Program Outputs

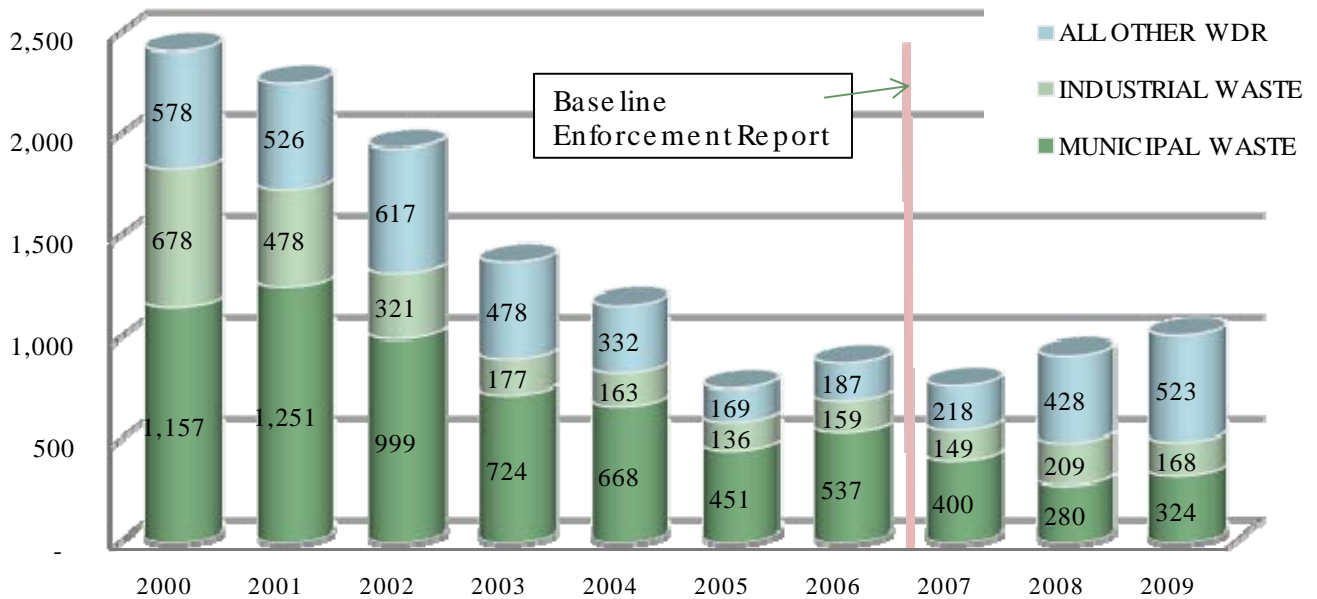
Compliance Outputs

More than 25,000 SMRs are received annually by the Regional Water Boards under the WDR program. Monitoring reports are submitted annually or as specified in WDR program requirements. For year 2009 the CIWQS database did not track monitoring reports due, received and reviewed for the WDR program therefore statistics about the number of reports are not included.

The figures and tables below portray a clear reduction in enforcement related program activity. While the data does not describe why this reduction has occurred, it is probable that regional priorities to address the substantial permit backlog in this program took precedent over compliance and enforcement activities. Figure 14 shows inspection trends since 2000.

Figure 14: WDR Program, Inspections 2000-2009

Inspections by Year



Note that the Water Boards are pioneering efforts to regulate specific categories of discharges nationally. For example, collection systems are in the early stages of regulation through a Statewide Sanitary Sewer Order adopted by the State Water Board in 2006. As program implementation progresses, the numbers of facilities regulated and inspected (as depicted in Table 26) are expected to increase throughout the state.

Facilities regulated under the WDR program can be classified into five categories based on the waste type and the activity type. Categories include: facilities that treat and discharge municipal waste, facilities that discharge industrial waste, wastewater collection systems, dairies and confined animal facilities and all other facilities such as recycled water, timber harvest activities etc. Tables 28 to 32 list inspections for the five types of WDR dischargers.

- Municipal wastewater treatment plants discharging to land
- Industrial wastewater treatment plants and food processing plants discharging to land
- Wastewater collection systems (sanitary sewer overflow prevention)
- Dairies and confined animal facilities
- All other activities, including, recycled water use, timber harvest, etc.

Table 28: WDR Municipal Waste Inspections in 2009

WDR Municipal	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	14	14	87	16%
Region 2	2	2	51	4%
Region 3	68	56	190	29%
Region 4	14	13	224	6%
<i>Region 5 Fresno</i>	40	22	284	8%
<i>Region 5 Redding</i>	30	21	143	15%
<i>Region 5 Sacramento</i>	10	9	242	4%
Region 5	80	52	669	8%
<i>Region 6 Tahoe</i>	9	9	31	29%
<i>Region 6 Victorville</i>	27	23	62	37%
Region 6	36	32	93	34%
Region 7	34	34	224	15%
Region 8	22	14	37	38%
Region 9	47	45	127	35%
Total	317	262	1,702	15%

* All data from CIWQS as of 4/17/2010

Table 29: WDR Industrial Waste Inspections in 2009

WDR Industrial	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	42	38	180	21%
Region 2	-	-	15	0%
Region 3	53	47	206	23%
Region 4	2	2	28	7%
<i>Region 5 Fresno</i>	38	35	203	17%
<i>Region 5 Redding</i>	4	4	62	6%
<i>Region 5 Sacramento</i>	14	11	178	6%
Region 5	56	50	443	11%
<i>Region 6 Tahoe</i>	1	1	6	17%
<i>Region 6 Victorville</i>	5	5	8	63%
Region 6	6	6	14	43%
Region 7	5	5	19	26%
Region 8	5	5	24	21%
Region 9	4	4	22	18%
Total	173	157	951	17%

Table 30: WDR Collection Systems/SSO Inspections in 2009

WDR SSO	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	-	-	66	0%
Region 2	1	1	122	1%
Region 3	-	-	104	0%
Region 4	-	-	147	0%
<i>Region 5 Fresno</i>	-	-	147	0%
<i>Region 5 Redding</i>	1	1	54	2%
<i>Region 5 Sacramento</i>	-	-	191	0%
Region 5	1	1	392	0%
<i>Region 6 Tahoe</i>	-	-	22	0%
<i>Region 6 Victorville</i>	2	1	47	2%
Region 6	2	1	69	1%
Region 7	-	-	33	0%
Region 8	-	-	86	0%
Region 9	-	-	50	0%
Total	4	3	1,069	0%

Table 31: WDR Dairies/CAFO Inspections in 2009

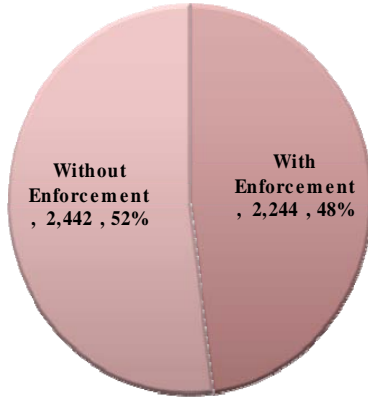
WDR CAFO/Dairies	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	-	-	1	0%
Region 2	-	-	11	0%
Region 3	-	-	2	0%
Region 4	-	-	0	NA
<i>Region 5 Fresno</i>	96	91	633	14%
<i>Region 5 Redding</i>	3	3	22	14%
<i>Region 5 Sacramento</i>	115	100	802	12%
Region 5	214	194	1,457	13%
<i>Region 6 Tahoe</i>	-	-	0	NA
<i>Region 6 Victorville</i>	6	5	5	100%
Region 6	6	5	5	100%
Region 7	-	-	0	NA
Region 8	-	-	0	NA
Region 9	1	1	5	20%
Total	221	200	1,481	14%

Table 32: WDR All Other Facilities Inspections FY 07-08

WDR Other	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	235	203	763	27%
Region 2	5	4	111	4%
Region 3	44	39	273	14%
Region 4	7	7	185	4%
<i>Region 5 Fresno</i>	16	15	84	18%
<i>Region 5 Redding</i>	12	10	33	30%
<i>Region 5 Sacramento</i>	9	9	100	9%
Region 5	37	34	217	16%
<i>Region 6 Tahoe</i>	11	10	134	7%
<i>Region 6 Victorville</i>	2	2	63	3%
Region 6	13	12	197	6%
Region 7	6	6	59	10%
Region 8	1	1	34	3%
Region 9	6	6	228	3%
Total	354	312	2,067	15%

Figure 15: WDR Facilities, Enforcement Response

Statewide, ENFORCEMENT RESPONSE WDR Violations Receiving Enforcement in 2009



Approximately 48% of all documented WDR violations occurring during year 2009 received an enforcement action.

The following tables summarize information on the number of violations and enforcement actions for each of the five categories of dischargers regulated under the WDR program.

Table 33: WDR Municipal Waste Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	87	190	42	22%	-	-	-
2	51	-	-	-	-	-	-
3	190	275	20	7%	17	10	59%
4	224	436	388	89%	4	4	100%
5F	284	799	272	34%	148	64	43%
5R	143	47	46	98%	1	1	100%
5S	242	455	192	42%	179	80	45%
5 Total	669	1,301	510	39%	328	145	44%
6A	31	67	18	27%	23	8	35%
6B	62	706	393	56%	37	10	27%
6 Total	93	773	411	53%	60	18	30%
7	224	55	15	27%	-	-	-
8	37	-	-	-	-	-	-
9	127	266	253	95%	1	1	100%
Totals	1,702	3,296	1,639	50%	410	178	43%

Table 34: WDR Industrial Waste Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	180	-	-		-	-	
2	15	-	-		-	-	
3	206	51	7	14%	6	5	83%
4	28	-	-		-	-	
5F	203	166	90	54%	39	27	69%
5R	62	11	11	100%	-	-	
5S	178	221	22	10%	137	7	5%
5 Total	443	398	123	31%	176	34	19%
6A	6	12	1	8%	2	-	0%
6B	8	9	1	11%	-	-	
6 Total	14	21	2	10%	2	-	0%
7	19	67	23	34%	-	-	
8	24	-	-		-	-	
9	22	-	-		-	-	
Totals	951	537	155	29%	184	39	21%

Table 35: WDR Collection Systems Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	66	2	2	100%	-	-	
2	122	6	6	100%	-	-	
3	104	258	5	2%	5	2	40%
4	147	-	-		-	-	
5F	147	2	2	100%	-	-	
5R	54	-	-		-	-	
5S	191	1	1	100%	1	1	100%
5 Total	392	3	3	100%	1	1	100%
6A	22	4	-	0%	-	-	
6B	47	-	-		-	-	
6 Total	69	4	-	0%	-	-	
7	33	-	-		-	-	
8	86	12	4	33%	-	-	
9	50	68	68	100%	-	-	
Totals	1,069	353	88	25%	6	3	50%

Table 36: WDR Dairies/CAFO Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	1	-	-		-	-	
2	11	-	-		-	-	
3	2	7	-	0%	-	-	
4	-	-	-		-	-	
5F	633	316	266	84%	12	12	100%
5R	22	3	3	100%	-	-	
5S	802	37	16	43%	7	7	100%
5 Total	1,457	356	285	80%	19	19	100%
6A	-	-	-		-	-	
6B	5	11	1	9%	3	1	33%
6 Total	5	11	1	9%	3	1	33%
7	-	-	-		-	-	
8	-	-	-		-	-	
9	5	-	-		-	-	
Totals	1,481	374	286	76%	22	20	91%

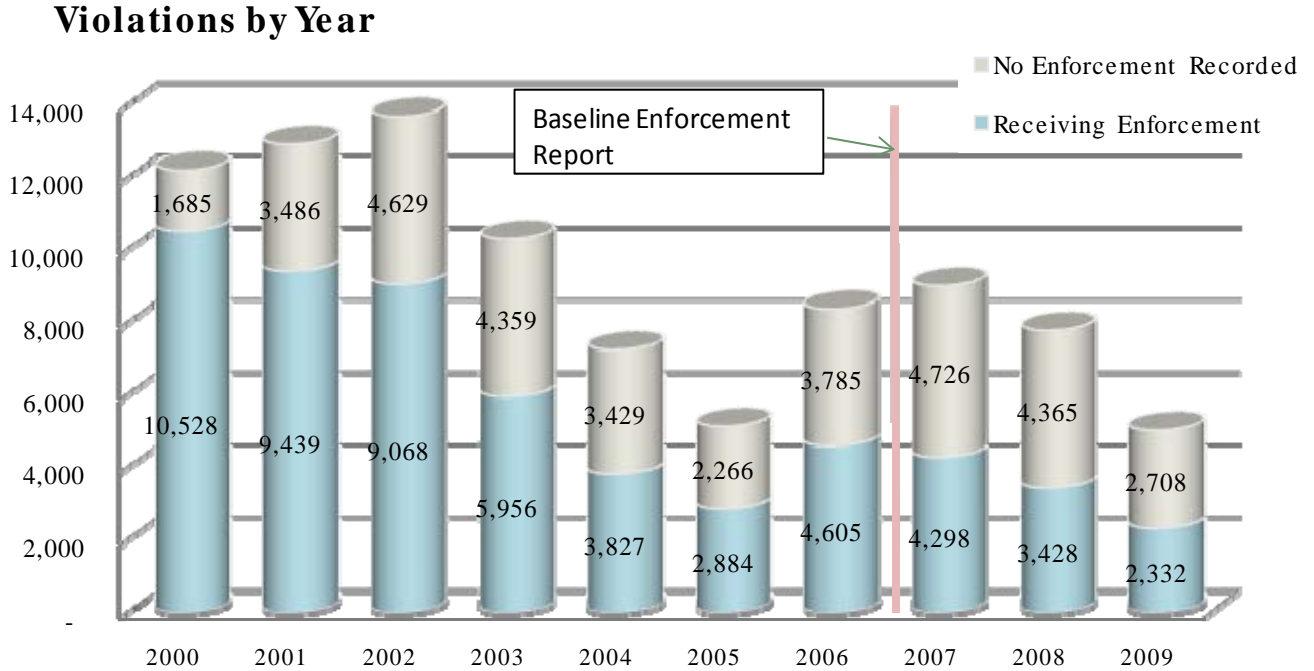
Table 37: WDR All Other Facilities Compliance and Enforcement Outputs in 2009

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	763	20	6	30%	-	-	
2	111	3	1	33%	-	-	
3	273	79	4	5%	2	2	100%
4	185	49	37	76%	-	-	
5F	84	69	52	75%	8	6	75%
5R	33	3	3	100%	-	-	
5S	100	81	14	17%	51	10	20%
5 Total	217	153	69	45%	59	16	27%
6A	134	59	28	47%	5	3	60%
6B	63	59	1	2%	3	-	0%
6 Total	197	118	29	25%	8	3	38%
7	59	24	3	13%	-	-	
8	34	-	-		-	-	
9	228	33	15	45%	-	-	
Totals	2,067	479	164	34%	69	21	30%

* Data from CIWQS

Trends in the number of violations receiving and not receiving enforcement for the entire WDR program has fluctuated substantially since 2000.

Figure 16: WDR Program, Violations Trends



As noted, the types of dischargers regulated under the NPDES and WDR programs are similar, the primary difference is that NPDES discharges are to surface waters and WDR discharges are to land and groundwater. While there are more WDR facilities, they are often smaller in scale than NPDES facilities. The land-intensive nature of these discharges means that these facilities are often found in more rural settings. WDR discharge violations can affect groundwater resources, and such effects can take longer to remediate or recover than surface water impacts.

As with NPDES violations and enforcement actions, regional variations in the outputs for WDR facilities reflect differences in the facilities regulated, resources made available for enforcement, and the priority assigned to tracking and recording violations and enforcement actions.

Enforcement Action Outputs

Table 38 to 42 lists the number of enforcement actions taken by the Regional Water Boards for the five categories of dischargers under the WDR program ranked from informal to more formal during year 2009.

Table 38: WDR Municipal Waste, Enforcement Actions for Year 2009

NON15 MUNICIPAL WASTE PROGRAM Enforcement Actions for Year 2009														
Group	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter					5	9		1	1	24		42	82
	Oral Communication	3		2		20	6	12	3	1			1	48
	Notice to Comply					2								2
	Notice of Violation	1		7	38	11	5	35	1	4			21	123
	Expedited Payment Letter													-
COMPLIANCE ACTIONS	13267 Letter						2					1		3
	Clean-up and Abatement Order							1				1		2
COMPLIANCE ACTIONS	Cease and Desist Order					1		2						3
	PENALTY ACTIONS	Admin Civil Liability	1		1								2	4
TOTAL	TOTAL	5	0	9	39	39	23	49	5	8	24	0	66	267

Table 39: WDR Industrial Waste, Enforcement Actions for Year 2009

NON15 INDUSTRIAL WASTE PROGRAM Enforcement Actions for Year 2009														
Group	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter			1		5	4				3		1	14
	Oral Communication			1		10		1	1					13
	Notice to Comply													-
	Notice of Violation			3	1	15	1	8		1			1	30
	Expedited Payment Letter													-
COMPLIANCE ACTIONS	13267 Letter			1			2							3
	Clean-up and Abatement Order								1					1
COMPLIANCE ACTIONS	Cease and Desist Order													-
	PENALTY ACTIONS	Admin Civil Liability												-
TOTAL	TOTAL	0	0	6	1	30	7	10	1	1	3	0	2	61

Table 40: WDR SSO, Enforcement Actions for Year 2009

NON15 SSO PROGRAM Enforcement Actions for Year 2009														
Group	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter					1	2				8	1	44	56
	Oral Communication			2		6	2	1					1	12
	Notice to Comply													-
	Notice of Violation	1	1	3	2	6	1	10					11	35
	Expedited Payment Letter													-
COMPLIANCE ACTIONS	13267 Letter													-
	Clean-up and Abatement Order													-
COMPLIANCE ACTIONS	Cease and Desist Order					1								1
	Admin Civil Liability	1	3									1		5
TOTAL	TOTAL	2	4	5	2	14	5	11	0	0	8	2	56	109

Table 41: WDR Dairies and CAFO, Enforcement Actions for Year 2009

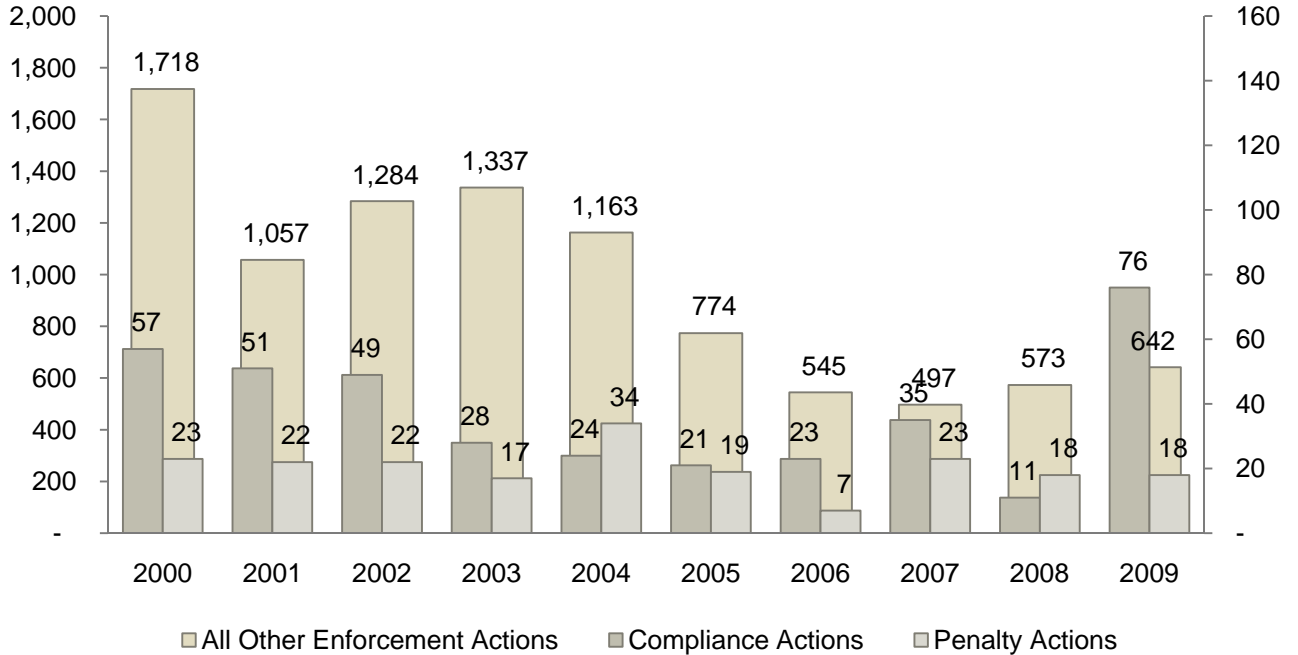
NON15 DAIRY AND CAFO PROGRAM Enforcement Actions for Year 2009														
Group	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter					10								10
	Oral Communication													-
	Notice to Comply													-
	Notice of Violation					116	2	3		1				122
	Expedited Payment Letter					1		7						8
COMPLIANCE ACTIONS	13267 Letter					12								12
	Clean-up and Abatement Order													-
COMPLIANCE ACTIONS	Cease and Desist Order													-
	Admin Civil Liability					1		9						10
TOTAL	TOTAL	0	0	0	0	140	2	19	0	1	0	0	0	162

Table 42: WDR All Other Facilities, Enforcement Actions for Year 2009

NON15 ALL OTHER FACILITIES PROGRAM Enforcement Actions for Year 2009														
Group	Enforcement Action TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter			1		6	3			5	8		3	26
	Oral Communication	3	1			9		1		1				15
	Notice to Comply													-
	Notice of Violation	5		3	24	9	1	6	2	3			4	57
	Expedited Payment Letter													-
COMPLIANCE ACTIONS	13267 Letter	1				2	2						1	6
	Clean-up and Abatement Order	2								1				3
COMPLIANCE ACTIONS	Cease and Desist Order								2	65				67
	Admin Civil Liability													-
TOTAL	TOTAL	11	1	4	24	26	6	7	4	75	8	0	8	174

The number of enforcement actions has fluctuated significantly since 2000. We have seen a significant decrease in the number of informal actions documented since 2003, although the level of formal enforcement remained at similar levels. This may be due, in part, to not recording informal actions in the new CIWQS database. The higher number of compliance actions in 2009 is mainly due to the issuance of 65 Cease and Desist orders to on-site wastewater disposal systems by the Victorville Office (Region 6)¹⁰.

Figure 17: WDR Program, Enforcement Actions 2000-2009



¹⁰ See Region 6 case description on Appendix 2.

Land Disposal Program Outputs

Compliance Outputs

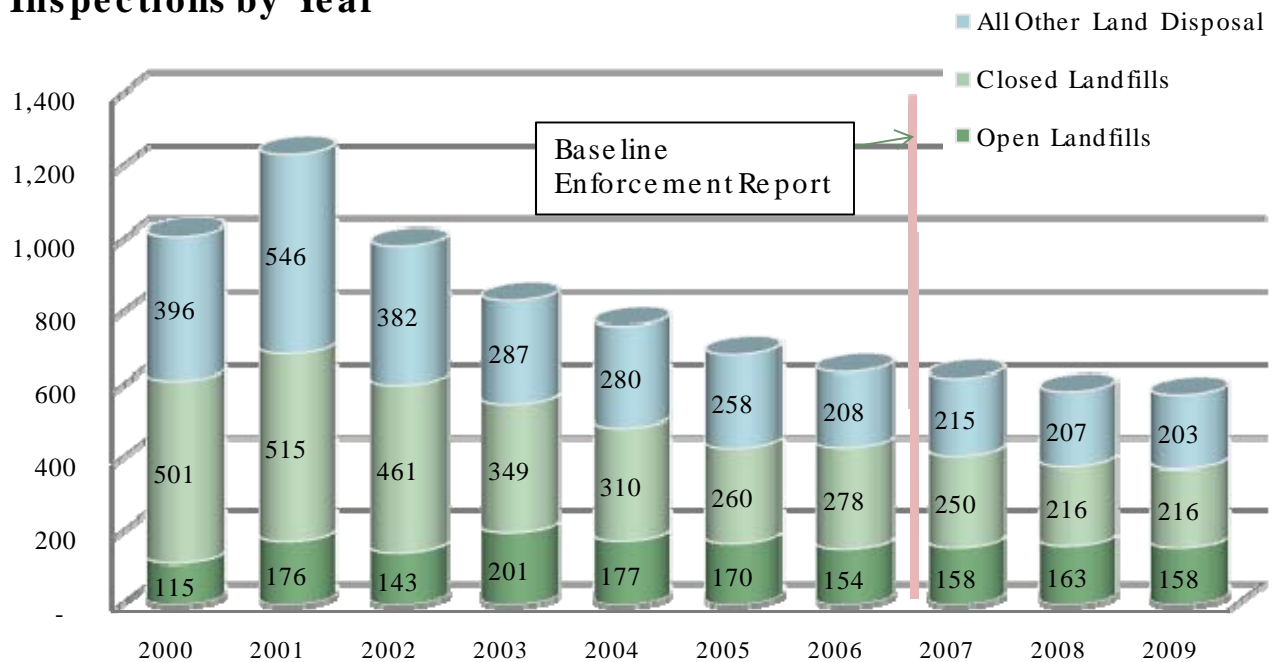
More than 2,000 SMRs are received annually by the Regional Water Boards to comply with the land disposal program requirements. Monitoring reports are submitted as specified in the permit requirements. For year 2009, the CIWQS database did not track monitoring reports due, received and reviewed for any program. Therefore at this time it is not possible to produce statistics about the number of SMRs for which compliance was assessed.

Facilities regulated under the Land Disposal program can be classified into three categories based on the waste type and the threat to water quality. Categories include: Landfills actively receiving waste (open), landfills that are closed and no longer accept waste (closed), and all other land disposal facilities (including surface impoundments, waste piles, land treatment units, etc)

Figure 18 shows the trends in the number of inspections conducted since 2000.

Figure 18: Land Disposal Program, Inspections Trends 2000-2009

Inspections by Year



Inspections conducted are tracked in the CIWQS database. For the Land Disposal program, 402 facilities were inspected during 2009. Table 43 to 45 below shows the total number of inspections conducted by each Regional Water Board.

Table 43: Land Disposal Open Landfills Inspections in 2009

LNDSP	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	-	-	2	0%
Region 2	14	5	9	56%
Region 3	25	14	15	93%
Region 4	27	10	10	100%
<i>Region 5 Fresno</i>	24	15	17	88%
<i>Region 5 Redding</i>	10	7	8	88%
<i>Region 5 Sacramento</i>	10	9	16	56%
Region 5	44	31	41	76%
<i>Region 6 Tahoe</i>	-	-	2	0%
<i>Region 6 Victorville</i>	10	10	15	67%
Region 6	10	10	17	59%
Region 7	17	10	18	56%
Region 8	20	9	12	75%
Region 9	-	-	6	0%
Total	157	89	130	68%

Table 44: Land Disposal Closed Landfills Inspections in 2009

LNDSP	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	7	5	26	19%
Region 2	27	21	49	43%
Region 3	8	5	36	14%
Region 4	17	10	16	63%
<i>Region 5 Fresno</i>	45	34	34	100%
<i>Region 5 Redding</i>	6	5	17	29%
<i>Region 5 Sacramento</i>	25	19	46	41%
Region 5	76	58	97	60%
<i>Region 6 Tahoe</i>	-	-	9	0%
<i>Region 6 Victorville</i>	23	21	21	100%
Region 6	23	21	30	70%
Region 7	11	6	21	29%
Region 8	39	21	27	78%
Region 9	8	6	40	15%
Total	216	153	342	45%

Table 45: Land Disposal All Other Facilities Inspections in 2009

LNDSP	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	1	1	5	20%
Region 2	26	17	24	71%
Region 3	2	2	7	29%
Region 4	25	21	33	64%
Region 5 Fresno	44	41	74	55%
Region 5 Redding	7	5	13	38%
Region 5 Sacramento	12	12	38	32%
Region 5	63	58	125	46%
Region 6 Tahoe	-	-	2	0%
Region 6 Victorville	35	32	40	80%
Region 6	35	32	42	76%
Region 7	37	21	36	58%
Region 8	12	7	24	29%
Region 9	1	1	14	7%
Total	202	160	310	52%

* Data from CIWQS as amended by the Regional Water Boards

Trends in the number of violations receiving and not receiving enforcement for the entire Land Disposal has fluctuated since 2000. The percentage of violations receiving enforcement fluctuated from 70% to 30% during this period.

Figure 19: Land Disposal, Violations Trends

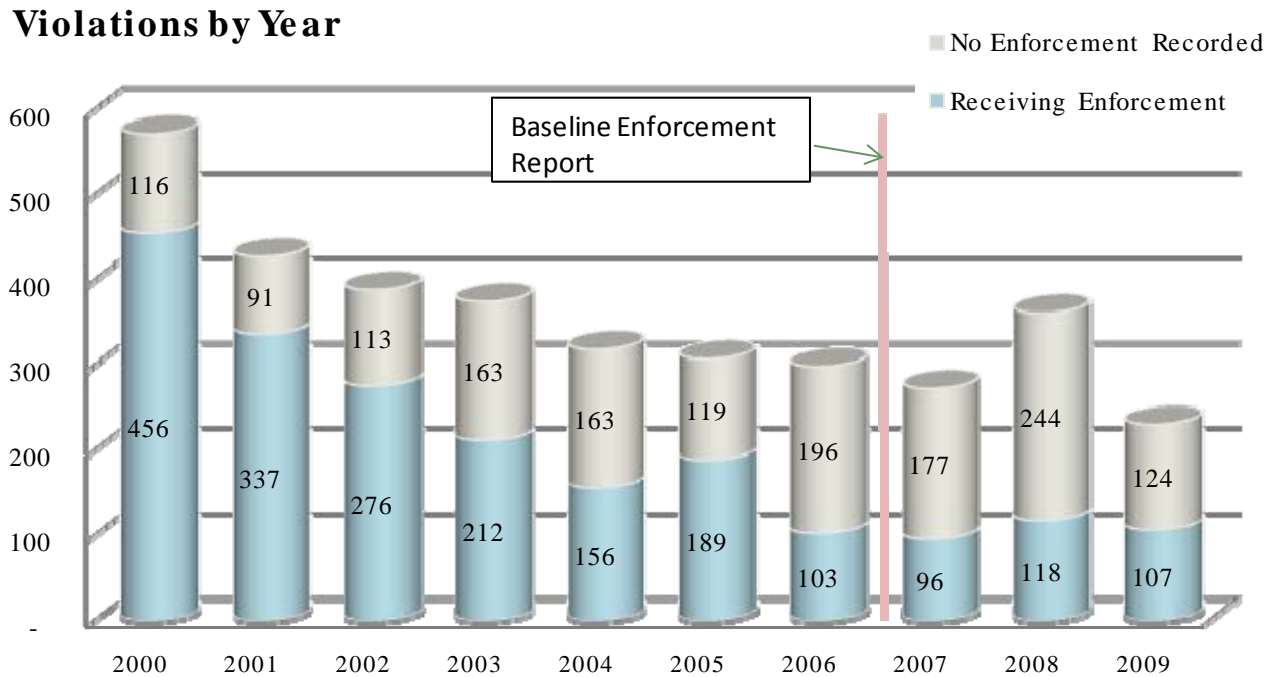


Table 46: Land Disposal, Open Landfills Compliance and Enforcement Outputs in 2009

LAND DISPOSAL	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	2	-	-	
Region 2	9	-	-	
Region 3	15	-	-	
Region 4	10	-	-	
Region 5 Fresno	17	8	8	100%
Region 5 Redding	8	1	1	100%
Region 5 Sacramento	16	5	1	20%
Region 5 Total	41	14	10	71%
Region 6 Tahoe	2	-	-	
Region 6 Victorville	15	10	1	10%
Region 6 Total	17	10	1	10%
Region 7	18	-	-	
Region 8	12	10	9	90%
Region 9	6	-	-	
Totals	130	34	20	59%

* Data from CIWQS

Table 47: Land Disposal Closed Landfills, Compliance and Enforcement Outputs in 2009

LAND DISPOSAL	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	26	-	-	
Region 2	49	2	1	50%
Region 3	36	2	1	50%
Region 4	16	4	4	100%
Region 5 Fresno	34	13	11	85%
Region 5 Redding	17	-	-	
Region 5 Sacramento	46	44	12	27%
Region 5 Total	97	57	23	40%
Region 6 Tahoe	9	-	-	
Region 6 Victorville	21	18	5	28%
Region 6 Total	30	18	5	28%
Region 7	21	-	-	
Region 8	27	6	4	67%
Region 9	40	12	10	83%
Totals	342	101	48	48%

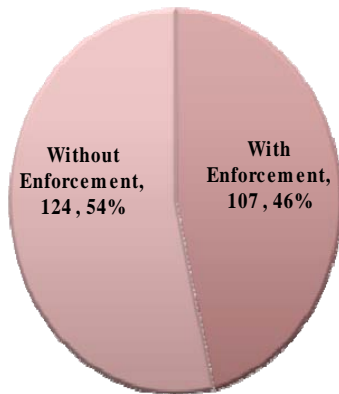
Table 48: Land Disposal All Other Facilities, Compliance and Enforcement Outputs in 2009

LAND DISPOSAL	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	5	-	-	
Region 2	24	9	4	44%
Region 3	7	-	-	
Region 4	33	5	5	100%
Region 5 Fresno	74	16	14	88%
Region 5 Redding	13	4	4	100%
Region 5 Sacramento	38	9	-	0%
Region 5 Total	125	29	18	62%
Region 6 Tahoe	2	-	-	
Region 6 Victorville	40	45	5	11%
Region 6 Total	42	45	5	11%
Region 7	36	1	-	0%
Region 8	24	7	7	100%
Region 9	14	-	-	
Totals	310	96	39	41%

Land Disposal sites include landfills, surface impoundments, ponds, waste piles, and land treatment units. Sites regulated under the Land Disposal Program are

Figure 20: Land Disposal Enforcement Response

Statewide, ENFORCEMENT RESPONSE LAND DISPOSAL Violations Receiving Enforcement 2009



generally stationary, long-term sites that require on-going monitoring to detect a release of waste that could impact groundwater.

Enforcement Action Outputs

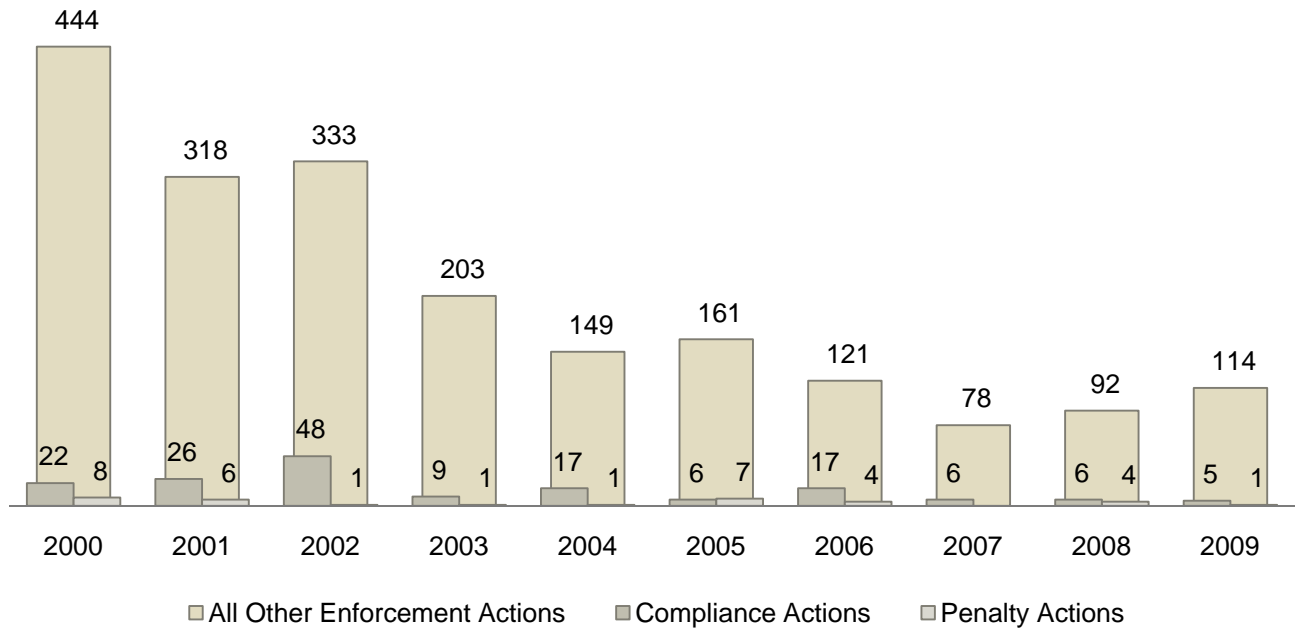
The following table lists the number of enforcement actions taken by the Regional Water Boards ranked from informal to more formal, during 2009.

Table 49: Land Disposal Enforcement Actions for Year 2009

LAND DISPOSAL PROGRAM Enforcement Actions for Year 2009														
Enforcement CATEGORY	Enforcement ACTION TYPE	Regional Board											Total	
		1	2	3	4	5F	5R	5S	6A	6B	7	8		9
ALL OTHER ACTIONS	Staff Enforcement Letter		3			10	1			4		5	1	24
	Oral Communication		1	1					3		11		16	
	Notice of Violation										12		12	
	Expedited Payment Letter				6	34	3	5		5		1	1	55
COMPLIANCE ACTIONS	13267 Letter		2			1	1						1	5
	Clean-up and Abatement Order								3		1	1		5
	Waste Discharge Requirements													-
	Cease and Desist Order													-
PENALTY ACTIONS	Stipulated Penalty													-
	Admin Civil Liability											1		1
TOTAL	TOTAL	0	6	1	6	45	5	5	3	12	1	30	4	118

Figure 21 shows trends in enforcement actions issued since 2000.

Figure 21: Land Disposal, Enforcement Actions Trends



Assessment of Administrative Civil Liability

The Water Boards have authority to assess Administrative Civil Liabilities (ACL) for certain violations. In some cases, these violations require the recovery of a Mandatory Minimum Penalty (MMP).

In 2009, the Regional Water Boards assessed more than \$20 million in liabilities. In some situations, the Regional Water Boards accepted a Supplemental Environmental Project (SEP) in lieu of monetary payment of some or all of the penalty. SEPs are for environmentally beneficial projects, either for projects the discharger would not otherwise have had to complete, or in some limited cases, for projects designed to return the discharger to compliance. Allowance for these projects is at the discretion of the Regional Water Board. There is a large variation from region-to-region in how these liabilities are allocated between penalties paid and SEPs allowed. In early 2009, the State Water Board adopted changes to limit the amount of a penalty that can be deferred to a SEP.

The Regional Water Boards record the amount for the SEP as part of the total amount assessed to the dischargers. Table 50 shows the breakdown by Regional Water Board. SEPs and compliance projects are addressed under "Project." The pending amounts are outstanding amounts that have not been recorded as paid, or projects that are not yet complete.

Table 50: Penalties Assessed in 2009*

RB	Number of ACLs	Total Amount Assessed	Liability Amount	Liability Pending	Project Amount	Project Pending	Total Pending
1	7	\$2,311,985	\$2,296,300	\$2,278,300	\$15,685	\$15,685	\$2,293,985
2	15	\$6,116,250	\$4,078,975	\$2,828,175	\$2,037,275	\$2,037,275	\$4,865,450
3	2	\$202,000	\$202,000	\$70,500	\$0	\$0	\$70,500
4	37	\$2,340,750	\$2,340,750	\$1,913,991	\$0	\$0	\$1,913,991
5F	6	\$1,533,000	\$1,533,000	\$1,496,250	\$0	\$0	\$1,496,250
5R	11	\$347,500	\$286,000	\$240,100	\$61,500	\$52,500	\$292,600
5S	36	\$1,655,850	\$1,402,700	\$573,475	\$253,150	\$253,150	\$826,625
6A	3	\$3,037,000	\$787,000	\$512,000	\$2,250,000	\$2,062,500	\$2,574,500
6B	0	\$0	\$0	\$0	\$0	\$0	\$0
7	5	\$299,640	\$253,140	\$209,640	\$46,500	\$46,500	\$256,140
8	3	\$762,000	\$426,000	\$336,000	\$336,000	\$336,000	\$672,000
9	13	\$1,810,380	\$1,700,880	\$718,200	\$109,500	\$109,500	\$827,700
Totals	138	\$20,416,355	\$15,306,745	\$11,176,631	\$5,109,610	\$4,913,110	\$16,089,741

*Data from CIWQS, it does not include penalties assessed under the Underground Storage Tanks program.

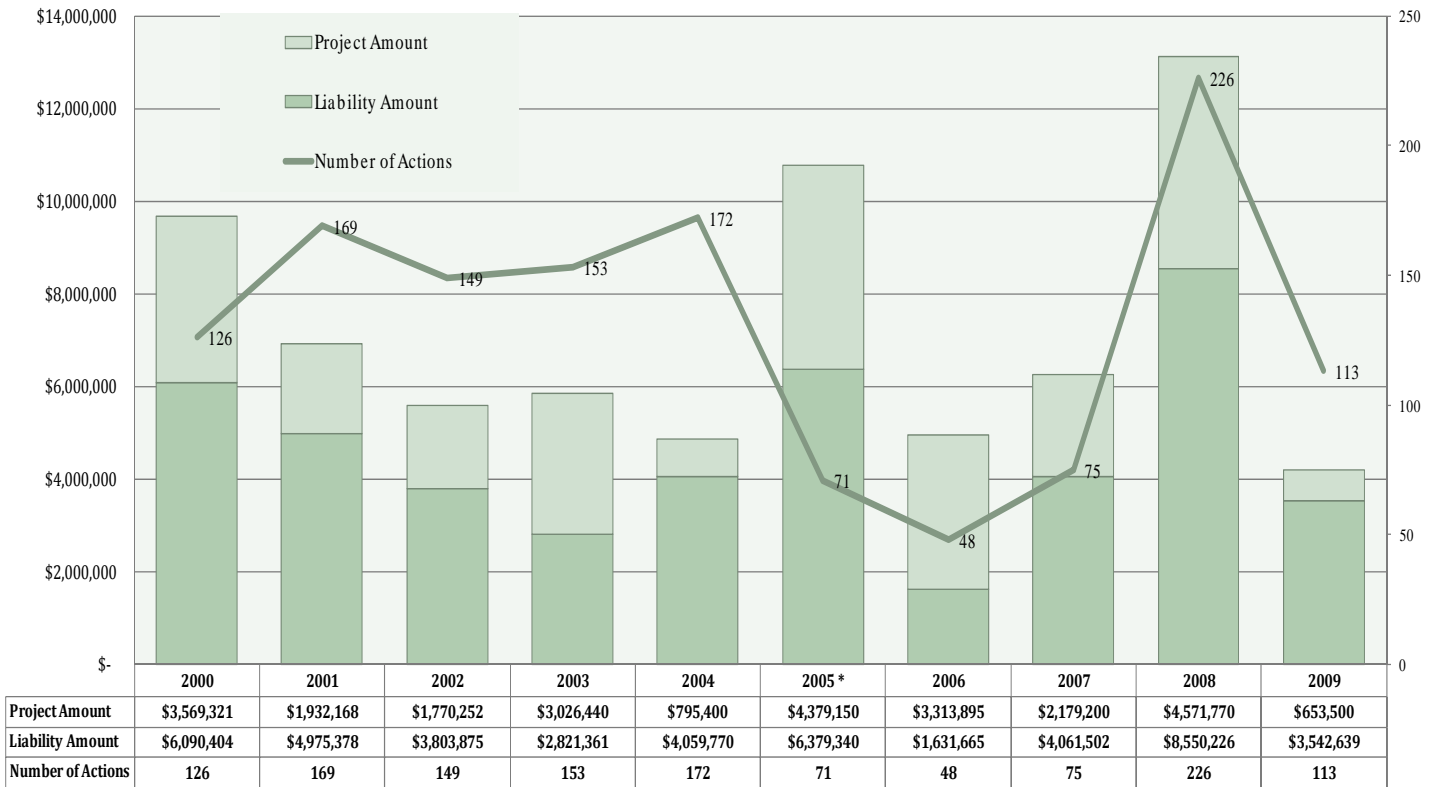
Information on penalties assessed and collected is available at the Water Boards CIWQS public reports site at:

<http://ciwqs.waterboards.ca.gov/ciwqs/readOnly/aclReport.jsp>

On average, roughly one-third of the penalties assessed are recorded as liability amounts that must be paid to the Water Boards' Cleanup and Abatement Account or the Waste Discharge Permit Fund. The remaining two-thirds of the amount was suspended pending the completion of supplemental environmental projects (SEP) or compliance projects.

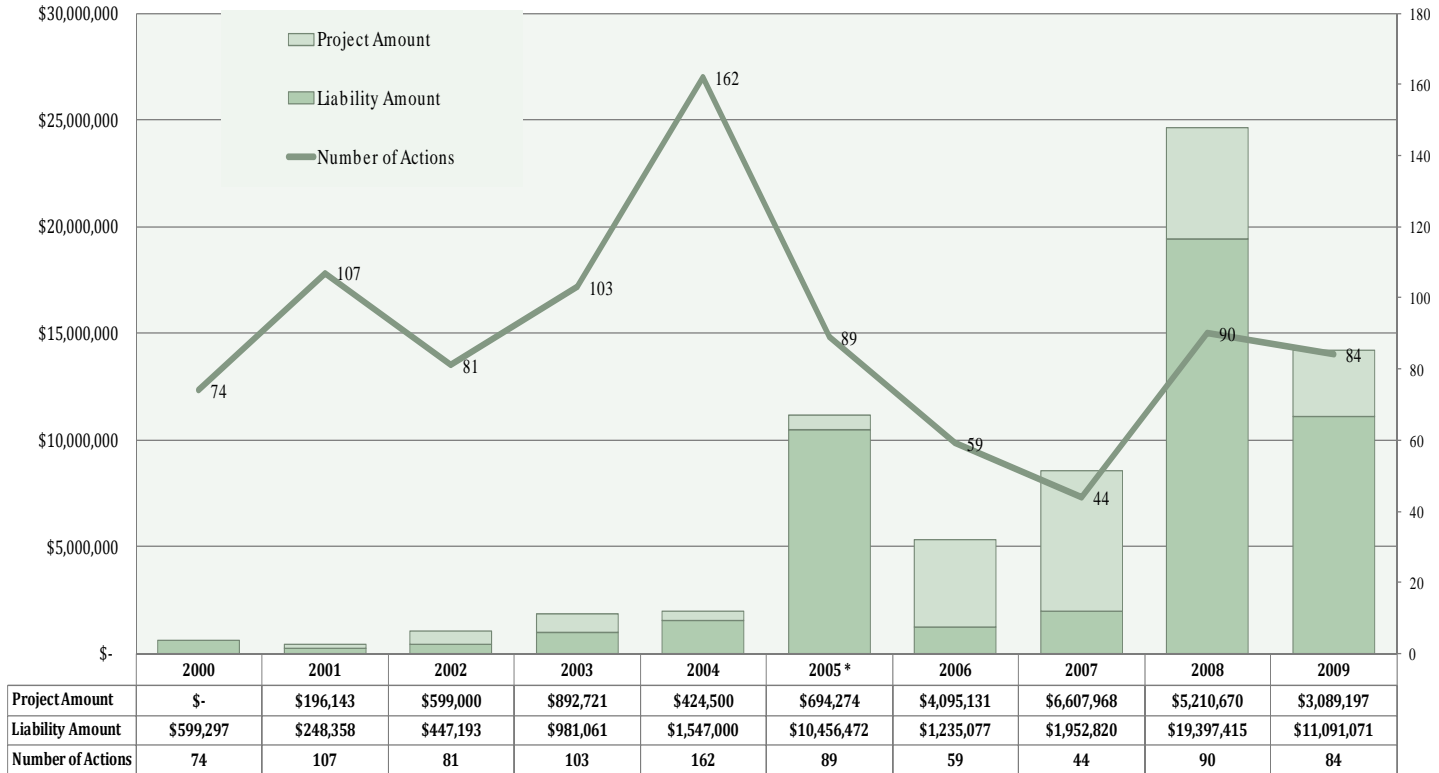
Trends in liabilities and projects assessed and the number of ACL actions issued and resolved (liabilities paid or projects completed) since 2000 are presented in Figure 22.

Figure 22: Penalties Assessed and Completed and Number of Actions Completed Trends



Trends in liabilities and projects assessed and the number of ACL actions issued but still not completely resolved (liabilities paid or projects completed) since 2000 are presented in Figure 23.

Figure 23: Penalties Assessed and Pending Resolution and Number of Actions Pending Resolution



*The liability amount for FY 05-06 includes an action taken by Region 3 for the Los Osos Community Services District (LOCSD) in the amount of \$6,626,000. The LOCSD is in bankruptcy so the Regional Water Board would need permission for the court to proceed with the administrative action.

Table 51: Cases Referred

Formal Enforcement Penalty Actions	2006	2007	2008	2009
Civil Cases Referred	2	4	9	4
Administrative Actions Initiated	64	90	271	171
Criminal Cases Referred*				

*Criminal cases are referred to the Attorney General's office. It is the decision of the Attorney General to pursue the case as a civil or criminal matter.

Section 5

5. Compliance and Enforcement Outcomes

The mission of compliance and enforcement programs is to ensure that compliance with laws and regulations is achieved and maintained over time. Measuring the outcome, or effect, of our activities is the most difficult part of performance measurement. Compliance rates assist managers to describe noncompliance problems in magnitude, frequency and duration and to evaluate the results of a program's compliance and enforcement strategies. Other recommended performance measures to assess the outcome of compliance and enforcement programs included measures to address the deterrent effects of enforcement recidivism, and environmental and economic benefits.

Approaches used to calculate compliance rates vary and must be tailored to each program. The approaches used in this section must be evaluated to determine if they reflect actual compliance for future reports. This report currently only addresses compliance rates among regions and programs based on information available in current Water Board databases. Data and

We define "compliance rate" as the number of facilities with one or more violations during the reporting period divided by the total number of facilities for which compliance has been assessed.

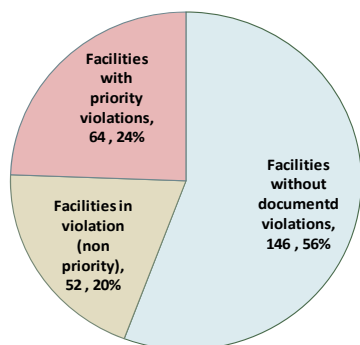
information is provided for the nine Regional Water Boards, but only for four of the five identified core regulatory programs. At this point it is not possible to provide information on compliance rates for the 401 Certification Program.

Compliance rates vary significantly among regions and programs. This variation may be in response to many factors including compliance efforts

initiated by the discharges,, compliance assistance provided by Regional Water Board staff, the level of enforcement resources dedicated to each program in each region, the number of inspections conducted and the number of SMRs reviewed.

NPDES WASTEWATER PROGRAM

NPDESMajor Facilities

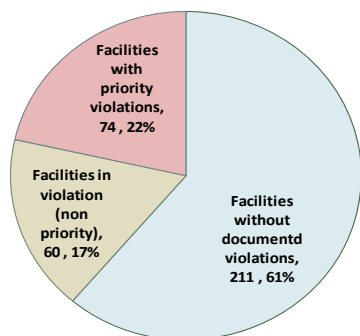


The NPDES Wastewater program regulates approximately 1,900 diverse facilities discharging to surface waters. This count includes both major individual dischargers with a high threat to water quality and minor dischargers enrolled under a general permit. Compliance rates are provided for each one of the discharger groups. For the NPDES Wastewater program, we assume that every facility and permit has received some degree of compliance assessment either by a review of the monitoring reports or through inspections. This is particularly true for major and minor individual permits.

Table 52: Compliance Rates, NPDES Wastewater Major 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	12	10	↓ 83%	77	2	17%	38	9	-	1	7.7
2	56	16	↑ 29%	63	8	14%	18	15	1	-	3.9
3	23	11	→ 48%	120	7	30%	41	8	1	2	10.9
4	45	30	→ 67%	269	11	24%	40	25	3	2	9.0
5F	7	4	→ 57%	19	1	14%	3	3	1	-	4.8
5R	13	4	↑ 31%	14	-	0%	-	4	-	-	3.5
5S	36	33	↓ 92%	1,236	31	86%	1,101	15	6	12	37.5
5 Total	56	41	↓ 73%	1,269	32	57%	1,104	22	7	12	31.0
6A	1	1	↓ 100%	93	1	100%	93	-	-	1	93.0
6B	2	1	→ 50%	13	1	50%	4	-	1	-	13.0
6 Total	3	2	→ 67%	106	2	67%	97	-	1	1	53.0
7	8	5	→ 63%	95	2	25%	64	3	1	1	19.0
8	21	1	↑ 5%	1	-	0%	-	1	-	-	1.0
9	38	-	↑ 0%	-	-	0%	-	-	-	-	-
Total	262	116	→ 44%	2,000	64	24%	1,402	83	14	19	17.2

NPDES Minor Facilities

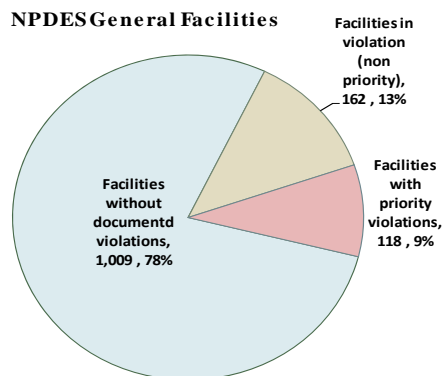


Minor dischargers can be regulated under individual Waste Discharge Requirements or enrolled under a general Waste Discharge Requirement permit. Compliance is assessed with self monitoring reports and with inspections.

The data shows a slightly better compliance rates for individual minor dischargers than for individual majors. We also see a significantly higher average number of violations per facility in violation for the individual minors than for the major dischargers.

Table 53: Compliance Rates, NPDES Wastewater Minor Individual in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	32	12	38%	65	4	13%	11	11	1	-	5.4
2	30	6	20%	40	1	3%	6	3	3	-	6.7
3	18	4	22%	10	1	6%	1	4	-	-	2.5
4	78	36	46%	326	18	23%	170	27	7	2	9.1
5F	22	8	36%	109	4	18%	32	5	2	1	13.6
5R	51	15	29%	97	8	16%	21	14	-	1	6.5
5S	55	34	62%	1,071	32	58%	773	19	5	10	31.5
5 Total	128	57	45%	1,277	44	34%	826	38	7	12	22.4
6A	4	2	50%	3	-	0%	-	2	-	-	1.5
6B	5	4	80%	21	1	20%	2	3	1	-	5.3
6 Total	9	6	67%	24	1	11%	2	5	1	-	4.0
7	18	10	56%	78	4	22%	35	6	4	-	7.8
8	13	1	8%	1	-	0%	-	1	-	-	1.0
9	19	2	11%	6	1	5%	3	2	-	-	3.0
Total	345	134	39%	1,827	74	21%	1,054	97	23	14	13.6



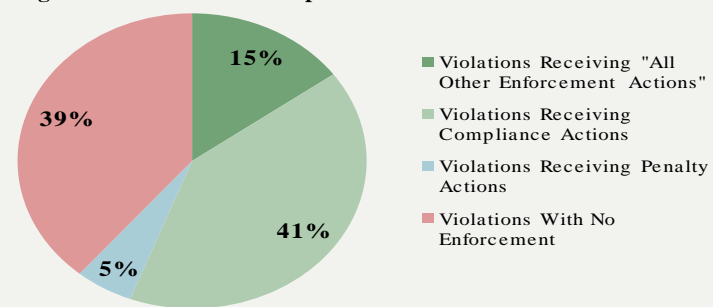
Dischargers enrolled under a general NPDES permit are a larger and more heterogeneous group. The threat to water quality for these groups of dischargers is lower and compliance assurance activities such as inspections and monitoring reports are less frequent. Inspections are conducted once every five years and the reporting frequency may be reduced to quarterly or annual reporting. Because of this, annual compliance rates are expected to be better than with other groups. Despite this fact, the data shows clear inconsistencies in data entry and violation documentation across the Regional Boards.

Table 54: Compliance Rates, NPDES Wastewater Minor General in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	13	-	0%	-	-	0%	-	-	-	-	-
2	185	16	9%	37	6	3%	6	15	1	-	2.3
3	70	2	3%	10	1	1%	4	2	-	-	5.0
4	421	165	39%	1,068	56	13%	276	139	22	4	6.5
5F	18	1	6%	1	-	0%	-	1	-	-	1.0
5R	25	2	8%	2	-	0%	-	2	-	-	1.0
5S	100	53	53%	447	53	53%	446	42	4	7	8.4
5 Total	143	56	39%	450	53	37%	446	45	4	7	8.0
6A	7	3	43%	6	1	14%	1	3	-	-	2.0
6B	9	-	0%	-	-	0%	-	-	-	-	-
6 Total	16	3	19%	6	1	6%	1	3	-	-	2.0
7	40	-	0%	-	-	0%	-	-	-	-	-
8	327	37	11%	49	-	0%	-	37	-	-	1.3
9	74	1	1%	2	1	1%	2	1	-	-	2.0
Total	1,289	280	22%	1,622	118	9%	735	242	27	11	5.8

NPDES: ENFORCEMENT RESPONSE. PRIORITY VIOLATIONS

Highest Enforcement Response to Violations



Violations With and Without Enforcement Actions

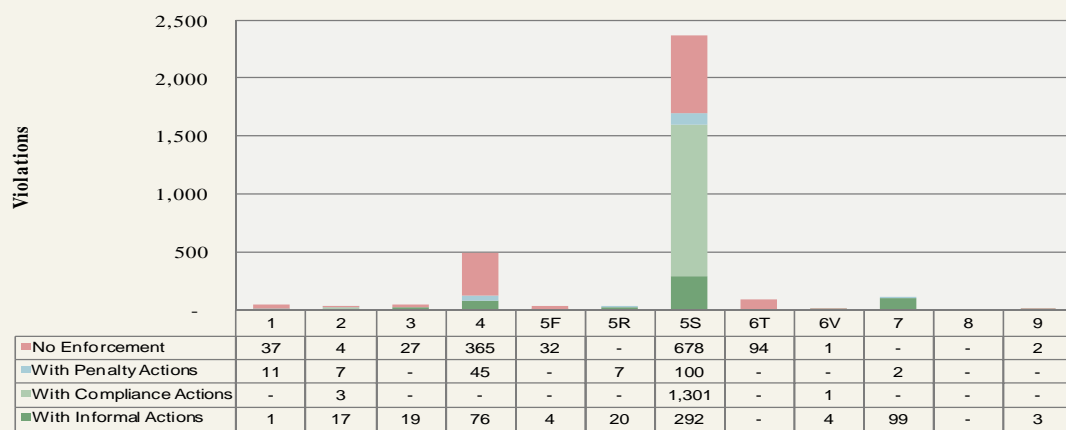


Table 55: Enforcement Response to 2009 NPDES Priority Violations

REGIONAL BOARD OFFICE	Violations Receiving "All Other Enforcement Actions"		Violations Receiving Compliance Actions		Violations Receiving Penalty Actions		Violations With Enforcement		Violations With No Enforcement		Total Number of Violations
		%		%		%		%		%	
Region 1	1	2%	-	0%	11	22%	12	24%	37	76%	49
Region 2	17	57%	3	10%	7	23%	26	87%	4	13%	30
Region 3	19	41%	-	0%	-	0%	19	41%	27	59%	46
Region 4	76	16%	-	0%	45	9%	121	25%	365	75%	486
Region 5 Fresno	4	11%	-	0%	-	0%	4	11%	32	89%	36
Region 5 Redding	20	95%	-	0%	7	33%	21	100%	-	0%	21
Region 5 Sacramento	292	13%	1,301	56%	100	4%	1,642	71%	678	29%	2,320
Region 5 Total	316	13%	1,301	55%	107	5%	1,667	70%	710	30%	2,377
Region 6 Tahoe	-	0%	-	0%	-	0%	-	0%	94	100%	94
Region 6 Victorville	4	67%	1	17%	-	0%	5	83%	1	17%	6
Region 6 Total	4	4%	1	1%	-	0%	5	5%	95	95%	100
Region 7	99	100%	-	0%	2	2%	99	100%	-	0%	99
Region 8	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 9	3	60%	-	0%	-	0%	3	60%	2	40%	5
TOTAL	535	17%	1,305	41%	172	5%	1,952	61%	1,240	39%	3,192

**NPDES: ENFORCEMENT RESPONSE.
ALL OTHER VIOLATIONS**

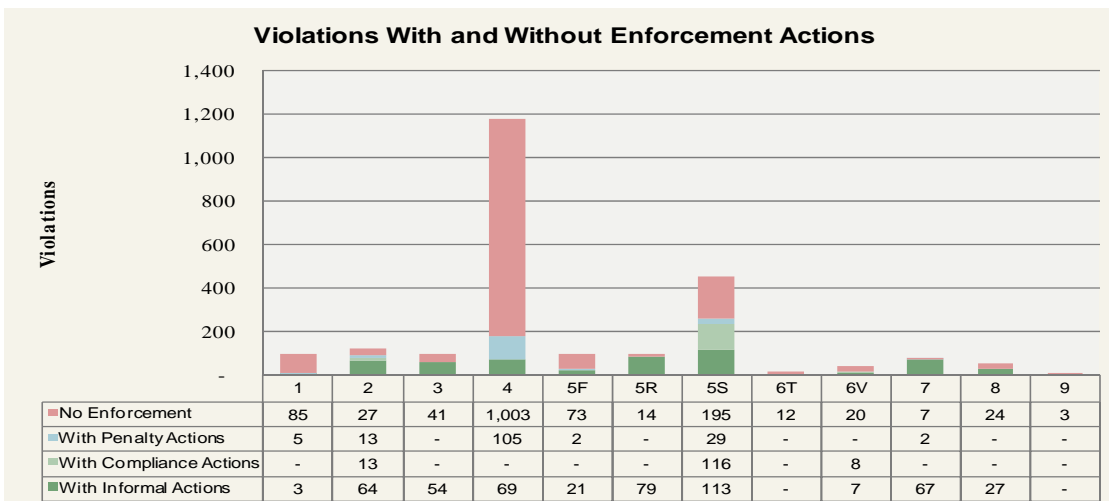
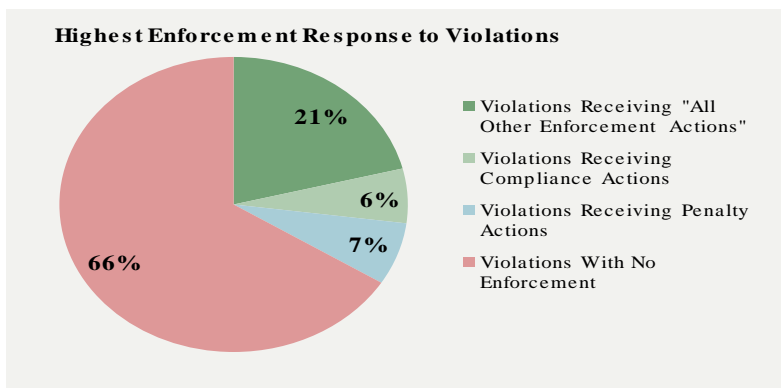
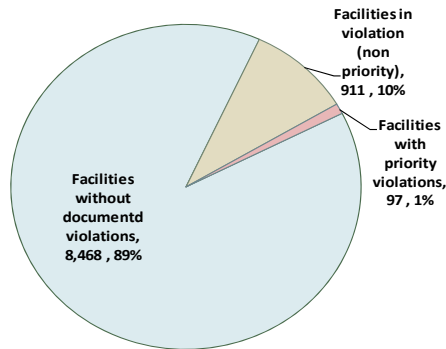


Table 56: Enforcement Response to 2009 NPDES All Other Violations

REGIONAL BOARD OFFICE	Violations Receiving "All Other Enforcement Actions"		Violations Receiving Compliance Actions		Violations Receiving Penalty Actions		Violations With Enforcement		Violations With No Enforcement		Total Number of Violations
		%		%		%		%		%	
Region 1	3	3%	-	0%	5	5%	8	9%	85	91%	93
Region 2	64	56%	13	11%	13	11%	88	77%	27	23%	115
Region 3	54	57%	-	0%	-	0%	54	57%	41	43%	95
Region 4	69	6%	-	0%	105	9%	174	15%	1,003	85%	1,177
Region 5 Fresno	21	22%	-	0%	2	2%	21	22%	73	78%	94
Region 5 Redding	79	85%	-	0%	-	0%	79	85%	14	15%	93
Region 5 Sacramento	113	26%	116	27%	29	7%	239	55%	195	45%	434
Region 5 Total	213	34%	116	19%	31	5%	339	55%	282	45%	621
Region 6 Tahoe	-	0%	-	0%	-	0%	-	0%	12	100%	12
Region 6 Victorville	7	20%	8	23%	-	0%	15	43%	20	57%	35
Region 6 Total	7	15%	8	17%	-	0%	15	32%	32	68%	47
Region 7	67	91%	-	0%	2	3%	67	91%	7	9%	74
Region 8	27	53%	-	0%	-	0%	27	53%	24	47%	51
Region 9	-	0%	-	0%	-	0%	-	0%	3	100%	3
TOTAL	504	22%	137	6%	156	7%	772	34%	1,504	66%	2,276

Stormwater Industrial Facilities

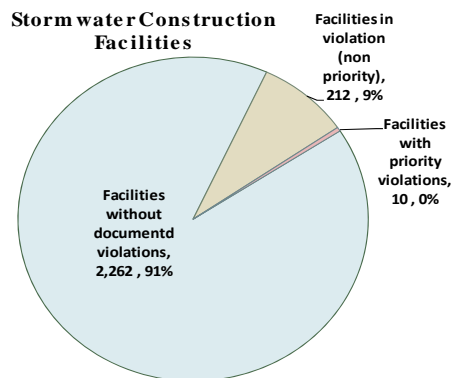


STORMWATER PROGRAM

Compliance for dischargers enrolled under the industrial stormwater permit is assessed by reviewing monitoring reports and with site-specific inspections. For purposes of calculating compliance rates for industrial stormwater facilities we assume that every industrial facility has received some level of compliance assessment. Therefore the compliance rate is calculated by dividing the number of facilities with one or more documented violations by the total number of industrial facilities enrolled under the stormwater program. The use of the priority flag for violations is also highly inconsistent. Despite the data limitations, the stormwater program identified the largest number of facilities with at least one violation.

Table 57: Compliance Rates, NPDES Stormwater Industrial in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	355	60	17%	67	-	0%	-	60	-	-	1.1
2	1,339	130	10%	132	-	0%	-	130	-	-	1.0
3	392	47	12%	47	-	0%	-	47	-	-	1.0
4	2,815	36	1%	68	8	0%	9	36	-	-	1.9
5F	556	-	0%	-	-	0%	-	-	-	-	
5R	183	47	26%	57	-	0%	-	47	-	-	1.2
5S	1,150	461	40%	504	-	0%	-	461	-	-	1.1
5 Total	1,889	508	27%	561	-	0%	-	508	-	-	1.1
6A	44	3	7%	4	-	0%	-	3	-	-	1.3
6B	173	2	1%	2	2	1%	2	2	-	-	1.0
6 Total	217	5	2%	6	2	1%	2	5	-	-	1.2
7	162	36	22%	36	-	0%	-	36	-	-	1.0
8	1,552	138	9%	155	87	6%	87	138	-	-	1.1
9	755	48	6%	60	-	0%	-	48	-	-	1.3
Total	9,476	1,008	11%	1,132	97	1%	98	1,008	-	-	1.1



The rate of compliance for construction activities enrolled under the stormwater program is calculated based on the number of facilities for which compliance was assessed (facilities inspected) and not the total number of facilities. Compliance assessment with NPDES Stormwater requirements at construction sites relies mostly on inspections for these reasons, and to make the compliance rate calculation as accurate as possible, we have only included the number of facilities inspected in the compliance rate calculation.

Table 58: Compliance Rates, NPDES Stormwater Construction in 2009

Regional Board Office	Number of Facilities Inspected*	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	84	8 ↑	10%	10	2	2%	2	8	-	-	1.3
2	77	33 ↓	43%	41	-	0%	-	33	-	-	1.2
3	5	- ↑	0%	-	-	0%	-	-	-	-	
4	366	22 ↑	6%	38	3	1%	3	22	-	-	1.7
5F	27	4 →	15%	6	1	4%	2	4	-	-	1.5
5R	52	7 ↑	13%	9	-	0%	-	7	-	-	1.3
5S	410	90 →	22%	190	1	0%	1	89	1	-	2.1
5 Total	489	101 →	21%	205	2	0%	3	100	1	-	2.0
6A	14	3 →	21%	3	-	0%	-	3	-	-	1.0
6B	8	- ↑	0%	-	-	0%	-	-	-	-	
6 Total	22	3 ↑	14%	3	-	0%	-	3	-	-	1.0
7	88	- ↑	0%	-	-	0%	-	-	-	-	
8	1,344	52 ↑	4%	73	3	0%	3	52	-	-	1.4
9	9	3 ↓	33%	10	-	0%	-	3	-	-	3.3
Total	2,484	222 ↑	9%	380	10	0%	11	221	1	-	1.7

**STORMWATER: ENFORCEMENT RESPONSE.
ALL VIOLATIONS**

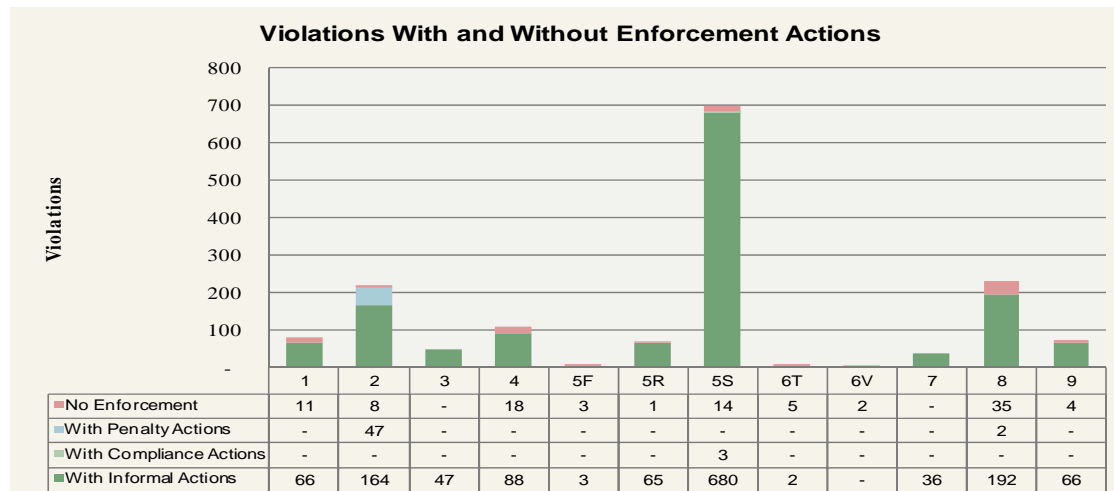
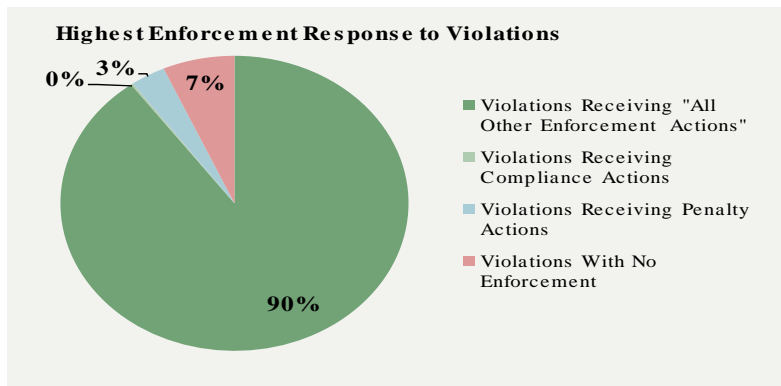
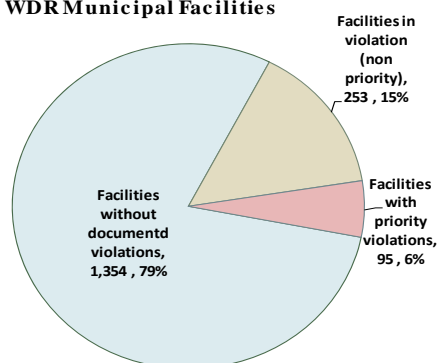


Table 59: Enforcement Response to 2009 STORMWATER All Violations

REGIONAL BOARD OFFICE	Violations Receiving "All Other Enforcement Actions"		Violations Receiving Compliance Actions		Violations Receiving Penalty Actions		Violations With Enforcement		Violations With No Enforcement		Total Number of Violations
		%		%		%		%		%	
Region 1	66	86%	-	0%	-	0%	66	86%	11	14%	77
Region 2	164	95%	-	0%	47	27%	165	95%	8	5%	173
Region 3	47	100%	-	0%	-	0%	47	100%	-	0%	47
Region 4	88	83%	-	0%	-	0%	88	83%	18	17%	106
Region 5 Fresno	3	50%	-	0%	-	0%	3	50%	3	50%	6
Region 5 Redding	65	98%	-	0%	-	0%	65	98%	1	2%	66
Region 5 Sacramento	680	98%	3	0%	-	0%	680	98%	14	2%	694
Region 5 Total	748	98%	3	0%	-	0%	748	98%	18	2%	766
Region 6 Tahoe	2	29%	-	0%	-	0%	2	29%	5	71%	7
Region 6 Victorville	-	0%	-	0%	-	0%	-	0%	2	100%	2
Region 6 Total	2	22%	-	0%	-	0%	2	22%	7	78%	9
Region 7	36	100%	-	0%	-	0%	36	100%	-	0%	36
Region 8	192	84%	-	0%	2	1%	193	85%	35	15%	228
Region 9	66	94%	-	0%	-	0%	66	94%	4	6%	70
TOTAL	1,409	93%	3	0%	49	3%	1,411	93%	101	7%	1,512

WDR Municipal Facilities



WDR PROGRAM

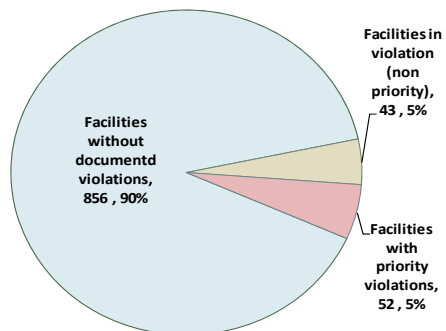
Compliance rates for the WDR program vary dramatically among Regional Water Boards, from no facilities reported in violation in Region 2 (San Francisco Bay Regional Board) to 69% of the facilities in violation in Region 6.

The compliance rate was calculated assuming that each facility received some level of oversight. Overall, 20% of the 1,702 municipal waste facilities in the program had one or more violations during the reporting period. Twenty-nine of those facilities had chronic compliance problems with more than 25 violations each recorded in the reporting period. The priority flag for violations is used inconsistently by the Water Boards.

Table 60: Compliance Rates, WDR Municipal Waste in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	87	17	↑ 20%	190	-	0%	-	13	2	2	11.2
2	51	-	↑ 0%	-	-	0%	-	-	-	-	
3	190	45	→ 24%	275	6	3%	17	37	7	1	6.1
4	224	44	↑ 20%	436	1	0%	4	35	4	5	9.9
5F	284	47	↑ 17%	799	28	10%	148	22	13	12	17.0
5R	143	14	↑ 10%	47	1	1%	1	12	2	-	3.4
5S	242	56	↑ 23%	455	32	13%	179	41	11	4	8.1
5 Total	669	117	↑ 17%	1,301	61	9%	328	75	26	16	11.1
6A	31	20	↓ 65%	67	14	45%	23	19	1	-	3.4
6B	62	44	↓ 71%	706	12	19%	37	31	12	1	16.0
6 Total	93	64	↓ 69%	773	26	28%	60	50	13	1	12.1
7	224	20	↑ 9%	55	-	0%	-	19	-	1	2.8
8	37	-	↑ 0%	-	-	0%	-	-	-	-	
9	127	41	→ 32%	266	1	1%	1	34	4	3	6.5
Total	1,702	348	↑ 20%	3,296	95	6%	410	263	56	29	9.5

WDR Industrial Facilities



Compliance rates for industrial facilities regulated under the Waste Discharge Requirements program also vary significantly. We find the highest noncompliance rate in Sacramento although this may be due to better violation documentation procedures and data entry in CIWQS.

Compliance rates for regions 1, 2, 4, 8 and 9, with no facilities with one or more violations in the period, may not be completely accurate and it may be due to incomplete data entry and documentation of violations in CIWQS.

Table 61: Compliance Rates, WDR Industrial Waste in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	180	-	0%	-	-	0%	-	-	-	-	-
2	15	-	0%	-	-	0%	-	-	-	-	-
3	206	12	6%	51	4	2%	6	11	1	-	4.3
4	28	-	0%	-	-	0%	-	-	-	-	-
5F	203	17	8%	166	7	3%	39	11	6	-	9.8
5R	62	6	10%	11	-	0%	-	6	-	-	1.8
5S	178	50	28%	221	39	22%	137	41	8	1	4.4
5 Total	443	73	16%	398	46	10%	176	58	14	1	5.5
6A	6	4	67%	12	2	33%	2	4	-	-	3.0
6B	8	5	63%	9	-	0%	-	5	-	-	1.8
6 Total	14	9	64%	21	2	14%	2	9	-	-	2.3
7	19	1	5%	67	-	0%	-	-	-	1	67.0
8	24	-	0%	-	-	0%	-	-	-	-	-
9	22	-	0%	-	-	0%	-	-	-	-	-
Total	951	95	10%	537	52	5%	184	78	15	2	5.7

WDR: Sanitary Sewer Overflows

A sanitary sewer system is any system of pipes, pump stations, sewer lines, or other conveyances, which is owned or operated by a public entity, used to collect and convey wastewater to a treatment facility.

The compliance rate was calculated assuming that each facility received some level of oversight. This assumption may be inaccurate for many regions, such as in those regions where few or no inspections were conducted, those regions where SMRs are not receiving necessary review or for new program categories that are currently in the development stage. For this reason, pie charts reflecting the compliance rate for several of the WRD program categories currently in development are not being presented. Compliance rate information for collection systems is not reliable at this point and the program is working on developing procedures for classifying sewage spill violations in CIWQS. Not all sewage spills may be classified and documented in a violation record and many of the documented violations in the program are related to failure to meet their reporting requirements and no spill certification requirements.

Table 62: Compliance Rates, WDR SSO in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	66	2	3%	2	-	0%	-	2	-	-	1.0
2	122	3	2%	6	-	0%	-	3	-	-	2.0
3	104	50	48%	258	4	4%	5	44	5	1	5.2
4	147	-	0%	-	-	0%	-	-	-	-	
5F	147	1	1%	2	-	0%	-	1	-	-	2.0
5R	54	-	0%	-	-	0%	-	-	-	-	
5S	191	1	1%	1	1	1%	1	1	-	-	1.0
5 Total	392	2 	1%	3	1	0%	1	2	-	-	1.5
6A	22	1	5%	4	-	0%	-	1	-	-	4.0
6B	47	-	0%	-	-	0%	-	-	-	-	
6 Total	69	1 	1%	4	-	0%	-	1	-	-	4.0
7	33	-	0%	-	-	0%	-	-	-	-	
8	86	3	3%	12	-	0%	-	3	-	-	4.0
9	50	19	38%	68	-	0%	-	18	-	1	3.6
Total	1,069	80 	7%	353	5	0%	6	73	5	2	4.4

WDR: Dairies and CAFO

Reporting compliance rates for concentrated animal feeding operations (CAFO) and for dairies using information available in our CIWQS database represent several challenges due to the inconsistent use of the information system as it is reflected in the low number of violations and the low number of inspections documented (see Table 31).

As in previous examples, the compliance rate was calculated assuming that each facility received some level of oversight. This assumption may be inaccurate for many regions, such as in those regions where few or no inspections were conducted, those regions where SMRs are not receiving necessary review or for new program categories that are currently in the development stage. For this reason, pie charts reflecting the compliance rate for several of the WRD program categories currently in development are not being presented. The great majority of facilities are concentrated in the Central Valley Regional Water Board (region 5).

Table 63: Compliance Rates, WDR Dairies and CAFO in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	1	-	↑ 0%	-	-	0%	-	-	-	-	
2	11	-	↑ 0%	-	-	0%	-	-	-	-	
3	2	1	→ 50%	7	-	0%	-	1	-	-	7.0
4	-	-		-	-		-	-	-	-	
5F	633	122	↑ 19%	316	12	2%	12	121	1	-	2.6
5R	22	3	↑ 14%	3	-	0%	-	3	-	-	1.0
5S	802	36	↑ 4%	37	7	1%	7	36	-	-	1.0
5 Total	1,457	161	↑ 11%	356	19	1%	19	160	1	-	2.2
6A	-	-		-	-		-	-	-	-	
6B	5	4	↓ 80%	11	2	40%	3	4	-	-	2.8
6 Total	5	4	↓ 80%	11	2	40%	3	4	-	-	2.8
7	-	-		-	-		-	-	-	-	
8	-	-		-	-		-	-	-	-	
9	5	-	↑ 0%	-	-	0%	-	-	-	-	
Total	1,481	166	↑ 11%	374	21	1%	22	165	1	-	2.3

WDR: All other Facilities

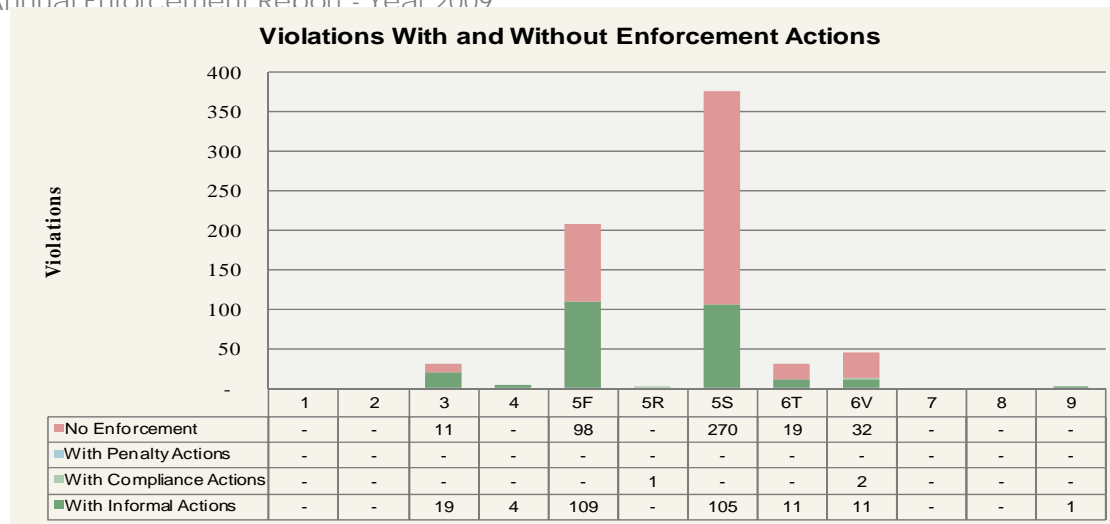
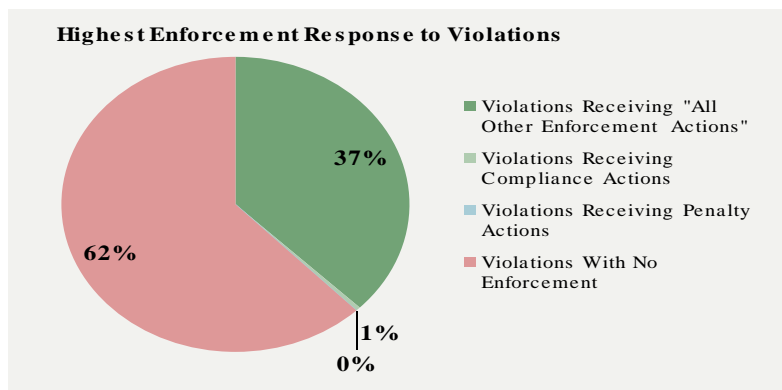
Facilities in this category include, among others, timber harvest facilities, recycled water use and any other category. The low non-compliance rate of only 6% compared to the other categories may be explained because of the low percentage of this facilities being inspected and inconsistencies in data entry and violation documentation.

As in previous examples, the compliance rate was calculated assuming that each facility received some level of oversight. This assumption may be inaccurate for many regions, such as in those regions where few or no inspections were conducted, those regions where SMRs are not receiving necessary review or for new program categories that are currently in the development stage. For this reason, pie charts reflecting the compliance rate for several of the WRD program categories currently in development are not being presented.

Table 64: Compliance Rates, WDR All Other Facilities in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	763	7	↑ 1%	20	-	0%	-	7	-	-	2.9
2	111	2	↑ 2%	3	-	0%	-	2	-	-	1.5
3	273	12	↑ 4%	79	2	1%	2	9	2	1	6.6
4	185	25	→ 14%	49	-	0%	-	25	-	-	2.0
5F	84	7	↑ 8%	69	5	6%	8	6	-	1	9.9
5R	33	3	↑ 9%	3	-	0%	-	3	-	-	1.0
5S	100	36	↓ 36%	81	27	27%	51	34	2	-	2.3
5 Total	217	46	→ 21%	153	32	15%	59	43	2	1	3.3
6A	134	16	→ 12%	59	3	2%	5	15	-	1	3.7
6B	63	17	↓ 27%	59	3	5%	3	16	1	-	3.5
6 Total	197	33	→ 17%	118	6	3%	8	31	1	1	3.6
7	59	4	↑ 7%	24	-	0%	-	3	1	-	6.0
8	34	-	↑ 0%	-	-	0%	-	-	-	-	
9	228	4	↑ 2%	33	-	0%	-	3	1	-	8.3
Total	2,067	133	↑ 6%	479	40	2%	69	123	7	3	3.6

WDR: ENFORCEMENT RESPONSE.



PRIORITY VIOLATIONS

Table 65: Enforcement Response to 2009 WDR Priority Violations

REGIONAL BOARD OFFICE	Violations Receiving "All Other Enforcement Actions"		Violations Receiving Compliance Actions		Violations Receiving Penalty Actions		Violations With Enforcement		Violations With No Enforcement		Total Number of Violations
		%		%		%		%		%	
Region 1	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 2	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 3	19	63%	-	0%	-	0%	19	63%	11	37%	30
Region 4	4	100%	-	0%	-	0%	4	100%	-	0%	4
<i>Region 5 Fresno</i>	109	53%	-	0%	-	0%	109	53%	98	47%	207
<i>Region 5 Redding</i>	-	0%	1	100%	-	0%	1	100%	-	0%	1
<i>Region 5 Sacramento</i>	105	28%	-	0%	-	0%	105	28%	270	72%	375
Region 5 Total	214	37%	1	0%	-	0%	215	37%	368	63%	583
<i>Region 6 Tahoe</i>	11	37%	-	0%	-	0%	11	37%	19	63%	30
<i>Region 6 Victorville</i>	11	26%	2	5%	-	0%	11	26%	32	74%	43
Region 6 Total	22	30%	2	3%	-	0%	22	30%	51	70%	73
Region 7	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 8	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 9	1	100%	-	0%	-	0%	1	100%	-	0%	1
TOTAL	260	38%	3	0%	-	0%	261	38%	430	62%	691

**WDR: ENFORCEMENT RESPONSE.
ALL OTHER VIOLATIONS**

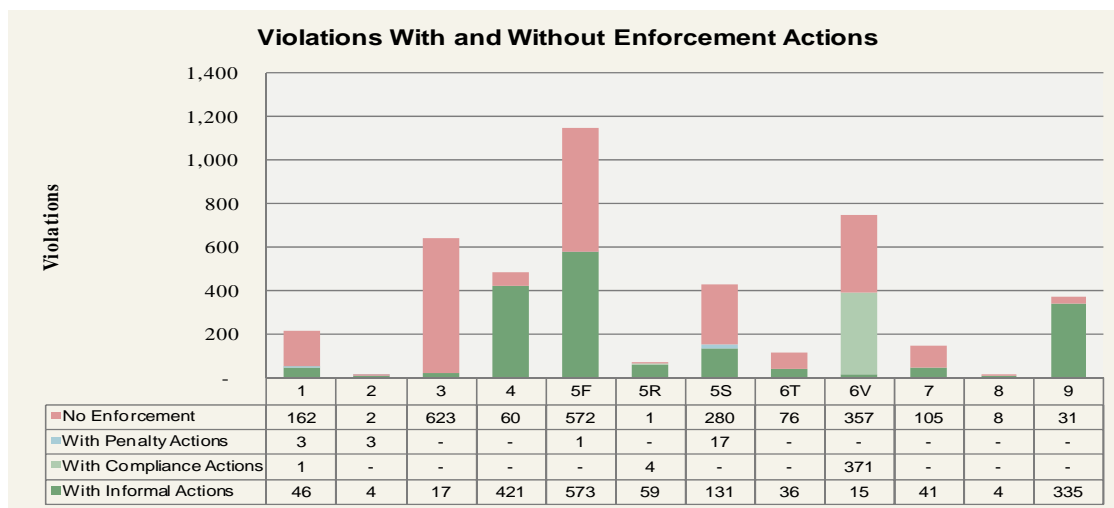
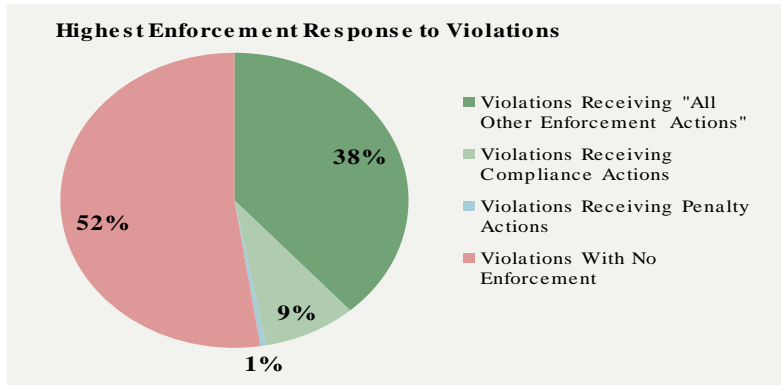
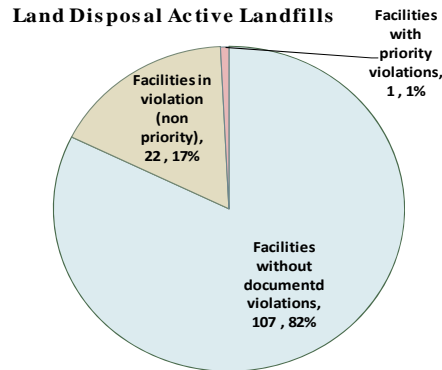


Table 66: Enforcement Response to 2009 WDR All Other Violations

REGIONAL BOARD OFFICE	Violations Receiving "All Other Enforcement Actions"		Violations Receiving Compliance Actions		Violations Receiving Penalty Actions		Violations With Enforcement		Violations With No Enforcement		Total Number of Violations
		%		%		%		%		%	
Region 1	46	22%	1	0%	3	1%	50	24%	162	76%	212
Region 2	4	44%	-	0%	3	33%	7	78%	2	22%	9
Region 3	17	3%	-	0%	-	0%	17	3%	623	97%	640
Region 4	421	88%	-	0%	-	0%	421	88%	60	12%	481
Region 5 Fresno	573	50%	-	0%	1	0%	573	50%	572	50%	1,145
Region 5 Redding	59	94%	4	6%	-	0%	62	98%	1	2%	63
Region 5 Sacramento	131	31%	-	0%	17	4%	140	33%	280	67%	420
Region 5 Total	763	47%	4	0%	18	1%	775	48%	853	52%	1,628
Region 6 Tahoe	36	32%	-	0%	-	0%	36	32%	76	68%	112
Region 6 Victorville	15	2%	371	50%	-	0%	385	52%	357	48%	742
Region 6 Total	51	6%	371	43%	-	0%	421	49%	433	51%	854
Region 7	41	28%	-	0%	-	0%	41	28%	105	72%	146
Region 8	4	33%	-	0%	-	0%	4	33%	8	67%	12
Region 9	335	92%	-	0%	-	0%	335	92%	31	8%	366
TOTAL	1,682	39%	376	9%	24	1%	2,071	48%	2,277	52%	4,348



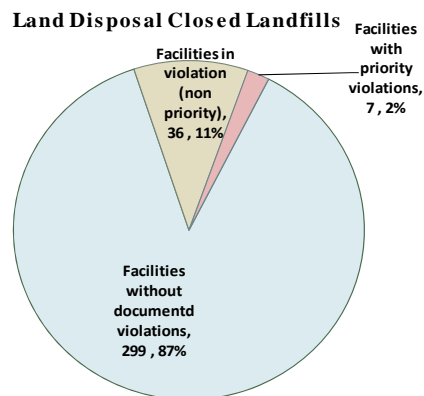
LAND DISPOSAL PROGRAM

Compliance rates in this program vary significantly among Regional Water Boards. 23 facilities under the land disposal program were identified as having one or more violations for year 2009 in the database. This represents a noncompliance rate of 16%.

Similar to the NPDES Wastewater program, the compliance rate was calculated assuming that each facility received some level of oversight. The inspection rate for this program is 51%. The lack of violation information in some regions may be due to inconsistencies in data entry.

Table 67: Compliance Rates, Land Disposal Active Landfills in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	2	-	0%	-	-	0%	-	-	-	-	
2	9	-	0%	-	-	0%	-	-	-	-	
3	15	-	0%	-	-	0%	-	-	-	-	
4	10	-	0%	-	-	0%	-	-	-	-	
5F	17	5	29%	8	-	0%	-	5	-	-	1.6
5R	8	1	13%	1	-	0%	-	1	-	-	1.0
5S	16	4	25%	5	-	0%	-	4	-	-	1.3
5 Total	41	10	24%	14	-	0%	-	10	-	-	1.4
6A	2	-	0%	-	-	0%	-	-	-	-	
6B	15	5	33%	10	1	7%	1	5	-	-	2.0
6 Total	17	5	29%	10	1	6%	1	5	-	-	2.0
7	18	-	0%	-	-	0%	-	-	-	-	
8	12	8	67%	10	-	0%	-	8	-	-	1.3
9	6	-	0%	-	-	0%	-	-	-	-	
Total	130	23	18%	34	1	1%	1	23	-	-	1.5

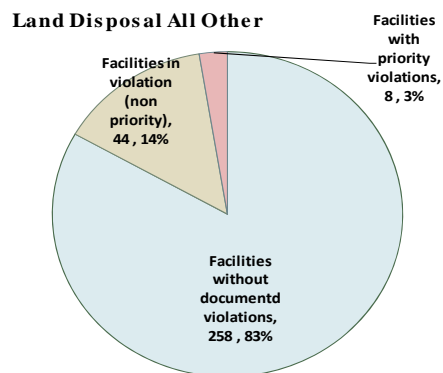


Once a Landfill is no longer accepting waste the Water Boards keep inspecting and regulating the facility to ensure compliance with waste discharge requirements.

The non-compliance rate for closed landfills at 13% is slightly better than open landfills at 18% although this information varies by Regional Water Board

Table 68: Compliance Rates, Land Disposal Closed Landfills in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	26	-	0%	-	-	0%	-	-	-	-	
2	49	2	4%	2	-	0%	-	2	-	-	1.0
3	36	2	6%	2	2	6%	2	2	-	-	1.0
4	16	2	13%	4	-	0%	-	2	-	-	2.0
5F	34	8	24%	13	-	0%	-	8	-	-	1.6
5R	17	-	0%	-	-	0%	-	-	-	-	
5S	46	16	35%	44	2	4%	4	15	1	-	2.8
5 Total	97	24	25%	57	2	2%	4	23	1	-	2.4
6A	9	-	0%	-	-	0%	-	-	-	-	
6B	21	6	29%	18	2	10%	4	6	-	-	3.0
6 Total	30	6	20%	18	2	7%	4	6	-	-	3.0
7	21	-	0%	-	-	0%	-	-	-	-	
8	27	5	19%	6	-	0%	-	5	-	-	1.2
9	40	2	5%	12	1	3%	3	2	-	-	6.0
Total	342	43	13%	101	7	2%	13	42	1	-	2.3



The Land Disposal program regulates of waste discharge to land for treatment, storage and disposal in waste management units. Waste management units include waste piles, surface impoundments, and landfills. All other land disposal facilities include surface impoundments, waste piles, land treatment units, etc.

Table 69: Compliance Rates, All Other Land Disposal in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	5	-	0% ↑	-	-	0%	-	-	-	-	-
2	24	6	25% →	9	-	0%	-	6	-	-	1.5
3	7	-	0% ↑	-	-	0%	-	-	-	-	-
4	33	3	9% ↑	5	-	0%	-	3	-	-	1.7
5F	74	10	14% ↑	16	1	1%	1	10	-	-	1.6
5R	13	4	31% →	4	-	0%	-	4	-	-	1.0
5S	38	6	16% ↑	9	-	0%	-	6	-	-	1.5
5 Total	125	20	16% ↑	29	1	1%	1	20	-	-	1.5
6A	2	-	0% ↑	-	-	0%	-	-	-	-	-
6B	40	21	53% ↓	45	7	18%	9	21	-	-	2.1
6 Total	42	21	50% ↓	45	7	17%	9	21	-	-	2.1
7	36	1	3% ↑	1	-	0%	-	1	-	-	1.0
8	24	1	4% ↑	7	-	0%	-	1	-	-	7.0
9	14	-	0% ↑	-	-	0%	-	-	-	-	-
Total	310	52	17% ↑	96	8	3%	10	52	-	-	1.8

LAND DISPOSAL: ENFORCEMENT RESPONSE. ALL VIOLATIONS

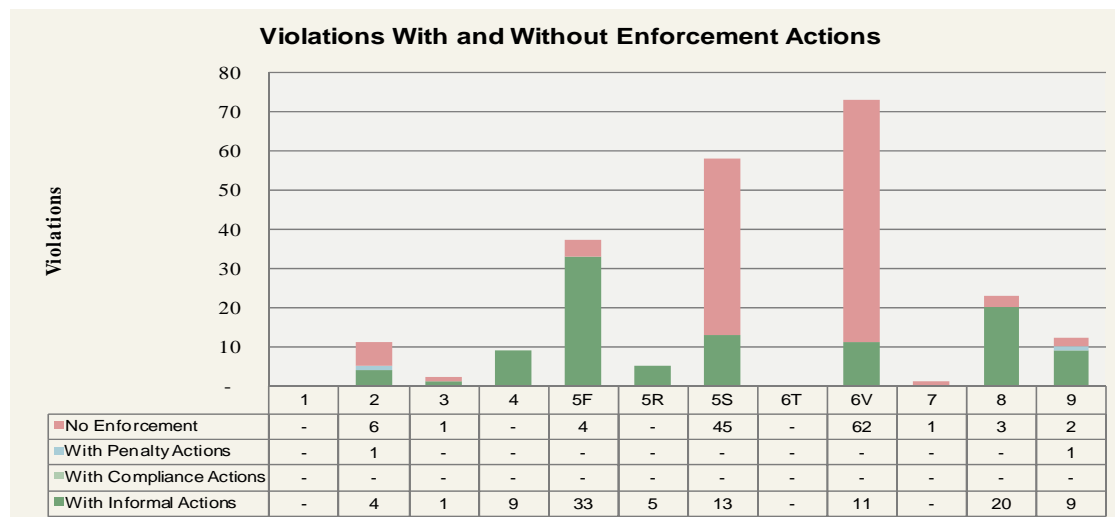
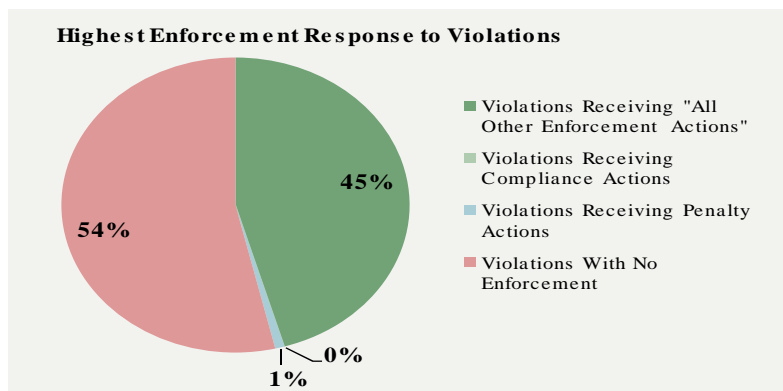
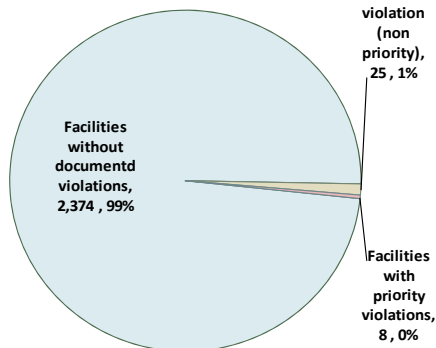


Table 70: Enforcement Response to 2009 LAND DISPOSAL Violations

REGIONAL BOARD OFFICE	Violations Receiving "All Other Enforcement Actions"		Violations Receiving Compliance Actions		Violations Receiving Penalty Actions		Violations With Enforcement		Violations With No Enforcement		Total Number of Violations
		%		%		%		%		%	
Region 1	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 2	4	36%	-	0%	1	9%	5	45%	6	55%	11
Region 3	1	50%	-	0%	-	0%	1	50%	1	50%	2
Region 4	9	100%	-	0%	-	0%	9	100%	-	0%	9
Region 5 Fresno	33	89%	-	0%	-	0%	33	89%	4	11%	37
Region 5 Redding	5	100%	-	0%	-	0%	5	100%	-	0%	5
Region 5 Sacramento	13	22%	-	0%	-	0%	13	22%	45	78%	58
Region 5 Total	51	51%	-	0%	-	0%	51	51%	49	49%	100
Region 6 Tahoe	-	N/A	-	N/A	-	N/A	-	N/A	-	N/A	-
Region 6 Victorville	11	15%	-	0%	-	0%	11	15%	62	85%	73
Region 6 Total	11	15%	-	0%	-	0%	11	15%	62	85%	73
Region 7	-	0%	-	0%	-	0%	-	0%	1	100%	1
Region 8	20	87%	-	0%	-	0%	20	87%	3	13%	23
Region 9	9	75%	-	0%	1	8%	10	83%	2	17%	12
TOTAL	105	45%	-	0%	2	1%	107	46%	124	54%	231

401 Certification/ Wetlands



401 WETLANDS PROGRAM

This program regulates discharges of fill and dredged material under Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act.

This program has special responsibility for wetlands, riparian areas, and headwaters because these waterbodies have high resource value, are vulnerable to filling, and are not systematically protected by other programs. It is involved with protection of special-status species and regulation of hydro modification impacts.

Table 71: Compliance Rates, 401 Certifications and Wetlands in 2009

Regional Board Office	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	698	7	1% ↑	10	-	0%	-	7	-	-	1.4
2	118	3	3% ↑	3	-	0%	-	3	-	-	1.0
3	2	-	0% ↑	-	-	0%	-	-	-	-	
4	2	-	0% ↑	-	-	0%	-	-	-	-	
5F	48	4	8% ↓	11	2	4%	5	4	-	-	2.8
5R	442	7	2% ↑	8	-	0%	-	7	-	-	1.1
5S	728	-	0% ↑	-	-	0%	-	-	-	-	
5 Total	1,218	11	1% ↑	19	2	0%	5	11	-	-	1.7
6A	64	5	8% ↓	11	3	5%	6	5	-	-	2.2
6B	49	1	2% ↑	2	1	2%	2	1	-	-	2.0
6 Total	113	6	5% →	13	4	4%	8	6	-	-	2.2
7	133	-	0% ↑	-	-	0%	-	-	-	-	
8	45	1	2% ↑	2	-	0%	-	1	-	-	2.0
9	78	5	6% ↓	12	2	3%	3	5	-	-	2.4
Total	2,407	33	1% ↑	59	8	0%	16	33	-	-	1.8

Section 6

6. Update on Recommendations for Improvements in Water Boards' Enforcement Programs

After reviewing the summary enforcement statistics and recommendations received about the Water Boards' enforcement activities through public forums, the State Water Board's Office of Enforcement recommended a series of actions below for core regulatory enforcement program improvements in prior enforcement reports. Unlike the prior reports, this year's report does not include a "Recommendations" section. However, the Water Boards will continue to evaluate and identify improvements to its enforcement activities including structural and operational changes related to enforcement efficiency, consistency and prioritization.

Below is a status of actions taken to implement the recommendations identified in the prior enforcement reports --FY 2006-2007 *Baseline Enforcement Report* and the FY 2007-2008 Annual Enforcement Report.

1. Create Procedural Consistency in Regional Water Board Enforcement Proceedings (FY 2006-07)

To provide fair and consistent enforcement, formal enforcement actions should follow procedures which are consistent across the Water Boards. The Office of Enforcement's prosecuting attorneys should work with the advisory counsel in the Office of Chief Counsel to develop uniform hearing notices and other administrative enforcement procedures.

Related Strategic Plan Action: SPA [Item 6.1.2](#)

Status: Completed

Uniform hearing notices and related documents have been created and are in use.

2. Prioritize Enforcement Actions to Address the Most Serious Threats to Water Quality (FY 2006-07)

Regional Water Boards should engage in bimonthly enforcement priority discussions with the Office of Enforcement to evaluate priority cases for enforcement action. The priorities selected should be consistent with the Water Quality Enforcement Policy. The Regional Water Boards should review and track cases that are identified as priorities. All Class 1 Violations (as defined in the proposed Water Quality Enforcement Policy) should have formal enforcement actions initiated within one year of detection by Water Board staff.

Related Strategic Plan Action Item: Revise Water Quality Enforcement Policy to address prioritization, SPA [Item 1.3.4](#)

Status: Completed

The *Water Quality Enforcement Policy*, adopted on November 17, 2009, contains a comprehensive section on enforcement prioritization.

3. Enhance Inspection and Enforcement Training (FY 2006-07)

The Water Boards should develop minimum training requirements for compliance and enforcement staff. Each compliance and enforcement staff person should have an individual development plan that specifies required training elements. The training should be administered through the Water Boards' Training Academy or Cal EPA's Enforcement Training Program. This training should also include information on CIWQS data entry procedures.

Related Strategic Plan Action Item: Assess training needs and deliver core curricula to enforcement staff, [SPA 7.1.1](#)

Status: Ongoing

The Water Boards' Training Academy completed the training needs assessment in January 2009. OE continues to work with Cal/EPA Training Committee and Water Board Training Academy on developing minimum training requirements.

4. Increased Field Presence of Water Board Staff (FY 2006-07)

Inspection frequencies should be specified and maintained for each regulated facility. Increased inspector field presence can be of great value in locating non-filers and illegal discharges.

Status: No action.

No additional work on this recommendation has occurred since the last annual enforcement report.

5. Evaluate Opportunities for Citizen Enforcement of the Water Code And Track Notices of Intent to Sue (FY 2006-07 and FY 2007-08)

The Water Boards' data shows that a large percentage of detected violations do not have any enforcement action associated with them. If the Water Boards are unable to address all water quality violations because of a lack of enforcement resources, the Water Boards should evaluate whether California residents should have the ability to bring actions to enforce the *Water Code* similar to citizen enforcement action provisions under the federal *Clean Water Act*.

Status: In progress.

The Office of Enforcement is now tracking citizen suit notices under the federal Clean Water Act. Tracking began in March 2009. For the months of March – December 2009, OE was made aware of 62 notices of Intent to File Suite under the citizen enforcement action provisions of the Clean Water Act by approximately 20 different parties. OE hopes to prepare an analysis of citizen suit activity once sufficient information has been collected.

6. Evaluate Establishing Minimum Penalties for Water Code Violations (FY 2006-07)

The Water Boards should evaluate imposing minimum penalties, similar to *Health and Safety Code section 25299 and Water Code section 13350(e)(1)*, for the most serious water quality violations. Health and Safety Code section 25299 has been a significant factor in supporting enforcement cases and obtaining fines and penalties against non-complying owners and operators of UST systems. Adopting a minimum penalty regimen for other water quality violations would provide consistency in assessing monetary administrative and civil liabilities.

Status: In progress.

The Office of Enforcement is evaluating a possible mandatory minimum penalty process to apply to sanitary sewer overflows.

7. Create a Dedicated Enforcement Staff and Budget (FY 2006-07)

The Water Boards should develop a consistent way of identifying the enforcement staff and budget for each region and at the State Water Board. The Water Boards' electronic time-keeping system should track the time and cost spent on enforcement matters, particularly those which go to formal enforcement actions. The Water Boards should seek authority to recover the reasonable costs of enforcement as an assessment of liability (in administrative or civil liability matters) in addition to any monetary civil liability imposed in the enforcement proceeding.

Status: No action.

No additional work on this recommendation has occurred since the last annual enforcement report.

8. Increase the Use of the Attorney General's Office, District Attorneys, and City Attorneys in Enforcement Actions (FY 2006-07)

The Water Boards' enforcement program relies on administrative enforcement activity. There are matters and violations which warrant referral to other prosecuting agencies for the imposition of significant penalties, injunctive relief, and other actions. The Water Boards should better coordinate and communicate with these enforcement partners to ensure maximum deterrence. The Water Boards should evaluate whether additional legislative changes would help this effort.

Related Strategic Plan Action Item: Develop partnerships to leverage inspection and enforcement authority, [SPA 7.4.1](#)

Status: Ongoing.

[The Water Quality Improvement Initiative](#) contains provisions for increased use of outside prosecutors in support of water quality enforcement actions. OE, the Los Angeles Regional Water Board, and the Attorney General's Office continue to implement their pilot project to evaluate enhanced use of that office for water quality enforcement cases. There has been an increase in referrals to the Attorney General's Office which have resulted in significant judgments.

9. Reduce the Backlog of Enforcement Cases by Targeting MMP-Related Violations for Enforcement Priority (FY 2006-07)

Cases requiring MMPs continue to buildup in the Water Board enforcement system. These cases have been designated as an enforcement priority by the Legislature. The Water Boards should initiate action to significantly and measurably reduce the backlog in 2008. The Water Boards should evaluate the effectiveness of MMPs in achieving compliance at regulated facilities.

Related Strategic Plan Action Item: Reduce the backlog of facilities subject to MMPs, [SPA 1.3.1](#)

Status: Completed.

The MMP Enforcement Backlog was launched in July 2008. The Water Boards have initiated enforcement at each of the facilities that were the target of the backlog reduction effort. The latest update can be found at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/mmp_update_030110.pdf

The Office of Enforcement is coordinating a team of State Board staff to address over 45 facilities in the Los Angeles Basin with unresolved MMP violations.

10. Evaluate Updating the Statutory Penalty Limits to Address Inflation (FY 2006-07)

The 2008 oil spill in the San Francisco Bay from the M/V *Cosco Busan* illustrated that the authorized penalty amounts for the illegal discharge of oil and petroleum products into the state's waterways have not been updated since 1984. Cost of living indices suggest that the penalties should be adjusted by at least 100% to account for inflation. To maintain the deterrent impact of our water quality protection laws as intended, the Water Boards should evaluate the need and effects of adjusting the penalty provisions for both inflation and the environmental costs that result from these illegal discharges.

Status: No action.

No additional work on this recommendation has occurred since the last annual enforcement report. However, there has been legislation introduced by other entities addressing this issue.

11. Develop and Implement Plans to Compel Participation in Key Water Board Regulatory Programs (FY 2006-07)

As the Water Boards develop new initiatives and programs addressing emerging contaminant and pollution threats to water quality, it is essential for the success and integrity of these regulatory approaches to have full participation of the newly regulated entities. The Water Boards should develop plans, as a part of any new regulatory initiative or program, to target nonparticipants for early and well-publicized enforcement actions.

Status: In progress.

The Water Boards have begun considering strategies to compel participation in new program areas, however, more work is needed. For example, with the implementation of the Pre-Production Plastic Debris Program, the Water Boards are rolling out a strategy that use inspections to identify facilities subject to the Industrial General Permit (IGP) for storm water discharges, but have not yet enrolled. This strategy is primarily being implemented in the Los Angeles region.

12. Develop a Uniform Tracking and Reporting Mechanism for Illegal Discharges That Do Not Fall Within One of the Current Core Regulatory Programs (FY 2006-07)

The Water Boards should work with stakeholders to develop a consistent mechanism for recording violations and tracking enforcement response to the violations. Based on a baseline of verifiable information, the Water Boards can better determine the extent of the problem and develop more appropriate regulatory and enforcement responses.

Status: No action.

No additional work on this recommendation has occurred since the last annual enforcement report.

13. Encourage Flexibility in the Allocation of Resources to Target Priority Needs (FY 2006-07)

Encourage flexibility in the allocation of resources within the Water Boards to focus on specific regional and statewide issues and priorities, recognizing that a shift in resources away from a program area will result in a corresponding reduction in the level of effort for that area. Resource allocation modifications must be tracked to account for changing priorities.

Status: Completed.

The Water Boards have redirected staff, on an as-needed basis, to address target priority needs over the past several years. Examples include the MMP Initiative of 2009, UST Fraud , Waste, and Abuse Initiative of 2010.

14. Consolidate Legal Representation of Regional Enforcement Teams in the Office of Enforcement (FY 2007-08)

At this time the Office of Enforcement provides primary legal assistance on core regulatory enforcement matters to Regions 3, 6, 7, 8 and 9 and shares legal assistance enforcement responsibilities with the Office of Chief Counsel in Regions 1, 2, 4, and 5. Attorneys within the Office of Enforcement appear in all regions and are not specifically assigned to a particular region. Rather than split these legal representation functions between two legal offices, the Water Boards overall enforcement goals will benefit from the consolidation of prosecutorial expertise within a single legal office where its primary mission is enforcement. As necessary, resources should be directed to the Office of Enforcement to ensure that the Regional Boards receive, at least, the same level of legal enforcement support that they currently receive.

Status: Completed.

The regional enforcement teams are benefited by having legal counsel that specialize in the evaluation and presentation of enforcement matters, both straightforward and complex, and who are familiar with the enforcement policies and procedures.

15. Enhance State Water Board Assistance to Enforcement Staff in Determining Economic Benefit from Water Quality Violations (FY 2007-08)

The State Water Board should identify a team of economists, scientists and engineers to assist the Regional Water Board enforcement staff in assessing the economic benefit of noncompliance stemming from common water quality violations including but not limited to unauthorized sanitary sewer overflows, illegal storm water discharges, and wastewater treatment plant violations.

Status: Completed.

The Office of Enforcement also has contracted for additional technical support for economic benefit determinations for violations by waste water treatment facilities and collection systems.

16. Target and Address Data Issues that Adversely Impact Effective Reporting of Enforcement Outputs and Outcomes (FY 2007-08)

As a priority management action, the State Water Board should lead an effort to identify and correct data issues as they affect enforcement-related information. The use and evaluation of enforcement data will be impeded because of defects within the data used by the Water Boards for enforcement data tracking and analysis, particularly with regard to data that addresses enforcement outputs and outcomes.

Status: In progress.

The Water Boards initiated an Enforcement Data Summit which identified data improvement targets. This work is ongoing.

17. Evaluate the Development of Criminal Investigation Capability to Address Water Quality Violations (FY 2007-08)

Water Code section 13387 provides for criminal sanctions for specified water quality violations. *Health and Safety Code section 25299* provides criminal sanctions for violation of underground storage tank requirements. The Water Boards, however, have no specialized investigation staff to support a criminal investigation related to water quality violations or underground storage tank violations. The process for obtaining authority to employ criminal investigators is arduous. The need for such investigators should be thoroughly evaluated, and if the need is justified, the State Water Board should obtain permission to employ specialized investigators for use throughout the Water Boards.

Status: Completed.

The Office of Enforcement developed a proposal for a pilot project for criminal investigation staff. The proposal has not been brought to the State Board for action.

18. Create an Auditing Function to Investigate and Prosecute Fraudulent Use of Grant Funds or UST Cleanup Funds (FY 2007-08)

Given the increased demand for and availability of public funds for water quality improvement projects and UST site remediation projects, the State Water Board should create an inspection and auditing office to investigate and prosecute alleged fraudulent use or misappropriation of

grants awarded by the State Water Board or funds provided by the UST Cleanup Fund for underground storage tank remediation activities. The creation of such an office or function should reduce the misuse of such funds and thereby ensure the availability of such funds for their intended purposes. The State Water Board's strong interest in providing public funds should not prevent the State Water Board from establishing appropriate procedures to ensure the legitimate use of such funds. Studies of other government funding programs have estimated that without strong controls and an enforcement element which punishes fraud or misappropriation, the improper use of those public funds may be as high as 40%.

Status: Completed.

A Fraud Waste and Abuse Prevention Team has been created in the Office of Enforcement as a pilot project. This team will address the potential fraud, waste, and abuse of funds provided by the UST Cleanup Fund.

19. All Enforcement Related Information Must be Documented by the Water Boards in the CIWQS Database (FY 2007-08)

The Water Boards inconsistently record compliance and enforcement activity in the CIWQS database. CIWQS has undergone substantial improvement in the last several years and is the primary reporting tool for the Water Boards. Most programs, however, other than the NPDES wastewater programs, inconsistently use this system. Additionally, some Regional Water Board are more current in their data and use of the system than others. Finally, activities directly performed by contractors must be recorded as well (such as NPDES facility inspections conducted by US EPA contractors). Office of Enforcement staff will work with the Office of Information Management Analysis to ensure that inspections conducted by contractors can be distinguished in CIWQS from inspections conducted by Regional Water Board staff.

Status: Completed

The Water Quality Enforcement Policy (Policy), updated in November 2009 and in effect as of May 2010, requires that all violations and enforcement data be documented in the appropriate Water Board data management system within a specified timeframe. See Section XI. of the Policy at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

20. Enforcement Actions to Assess Monetary Penalties Should be Accompanied by Actions to Return Dischargers to Compliance for Outstanding or Continuing Violations (FY 2007-08)

An informal evaluation of enforcement action data for the NPDES Program identified that very few violations received enforcement to correct conditions that led to violations. Very few actions that resulted in the monetary assessment of penalties (ACLs) were accompanied by actions to return the discharger to compliance such as Cleanup and Abatement Orders or Cease and Desist Orders. To the greatest extent possible, the Water Boards should not limit enforcement actions to the assessment of monetary liability in situations where there is an outstanding or continuing violation of a requirement which significantly impacts or threatens to impact water quality.

Status: Completed

The Water Quality Enforcement Policy (Policy), updated in November 2009 and in effect as of May 2010, requires that where necessary, enforcement actions shall also ensure a timely return to compliance. See Section I.C. of the Policy at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

21. Approaches to Address Chronic Poor Operation and Maintenance at Wastewater Treatment Plants Serving Small Communities Should be Developed and Implemented (FY 2007-08)

All wastewater treatment plants must meet minimum operation and maintenance criteria to achieve compliance with federal and state permit requirements. Small communities face unique financial and facility operation challenges due to the small number of fee payers available to support new plant construction, upgrades and ongoing management responsibilities. The State Water Board adopted a small community strategy in 2008 to better assist these communities in achieving compliance. The Water Boards should evaluate the effectiveness of these strategies and propose a comprehensive approach that addresses common fiscal and operational deficiencies. An element of this approach should explore the development of a system of "general permits" to address similar activities at small community waste water treatment plants, such as the use of pond systems and "package plants."

Status: In Progress

The State Water Board adopted a Small Community Strategy in 2008 to assist small and/or disadvantaged communities with wastewater needs. In 2009, staff presented an update to this policy to the Board which summarized the status of prior recommendations and proposed a number of new recommendations. To address operational deficiencies, several new workshops are being offered this calendar year. However, suggested changes to address permitting and operator certification issued have been placed on hold due to resource constraints.

22. Conduct an Evaluation of the Waste Discharge Requirements Program to Examine the Declining Compliance and Enforcement Trend Data Presented in this Report and Make Recommendations (FY 2007-08)

The data presented for the waste discharge requirements program contained in the Compliance and Enforcement Outputs section demonstrates a decline in program activity for several years. The Water Boards should conduct a comprehensive evaluation to identify the causes of this decline. The evaluation should include data entry and data quality issues, resource distribution across programs as well as the activities conducted by program staff. The results of this evaluation, including recommendations, should be presented in next year's Annual Enforcement Report.

Status: Scheduled to begin in August 2010

The State Water Board's Division of Water Quality is preparing a workplan that will specify the scope and schedule of the comprehensive evaluation. The evaluation will extend beyond direct program administration and cover the program's effectiveness in protecting the State's groundwater resources. The evaluation will make recommendations that, when implemented, should regulate potential sources of groundwater contamination more effectively and result in more timely and targeted enforcement actions against entities that do not comply with groundwater protection standards.

23. Prepare an Analysis of the Authorities of the Water Boards to Require Actions that Promote Water Conservation, Water Recycling, and Urban Water Reuse (FY 2007-08)

The Water Boards have proposed a series of measures in response to the [Global Warming Solutions Act \(AB 32\)](#) and ongoing drought conditions to reduce water consumption and enhance locally sustainable water supplies. Many of the actions that the Water Boards and other state agencies are taking to implement these measures rely on voluntary participation and financial incentives. An analysis of the enforcement tools available to the Water Boards to require these and similar measures will shape additional strategies to require reductions in water consumption and enhance local water supplies.

Status: In Progress

The Water Boards are conducting this analysis in a piecemeal fashion as the specific measures contained in the Scoping Plan, adopted by the Air Resources Board, and the California Adaptation Strategy, prepared by the California Natural Resources Agency, are being implemented.

Section 7

7. Annual Enforcement Priorities for 2010

The new Water Quality Enforcement Policy requires the identification of enforcement priorities on an annual basis. The Water Boards are committed to timely implementation of this policy and identifying enforcement priorities for both its water quality and water rights programs, recognizing that most priorities will be implemented over multiple years. These priorities are similar in concept with the National Enforcement Initiatives established by the United States Environmental Protection Agency (USEPA). These priorities determine the focus for water quality enforcement efforts by the State and Regional Water Boards and water rights enforcement by the State Water Board, recognizing that the individual regions may have other priorities based on special issues facing those regions. The overarching priorities described below will be further enhanced by specific initiatives and actions at both the State and Regional Water Boards.

As can be seen from the priorities identified by virtually all of the Regional Water Boards, groundwater protection is critical for the Water Boards and the State of California. In a state where most of the population relies on groundwater for a portion of its drinking water, this makes sense. A major 2010 Water Board initiative (and a recommendation from last year's enforcement report) is a thorough evaluation of the effectiveness of the Water Boards' groundwater protection programs. The implementation of recommendations resulting from the evaluation should better protect groundwater and drinking water from potential sources of contamination and result in more timely and targeted enforcement actions against entities that do not comply with groundwater protection standards. This evaluation may also lead to the establishment of a statewide priority in the 2011 Annual Enforcement Report that includes measurable output(s) for groundwater protection.

SANITARY SEWER OVERFLOWS:

Sanitary sewer overflows (SSOs) result in discharges of untreated sewage, bacteria, pathogens, hazardous materials, and industrial wastewater. The causes of the discharges include aging infrastructure, undersized facilities, inadequate operation and maintenance, faulty equipment, and poor system design.

The State Water Board adopted Statewide General Waste Discharge Requirements (WDRs) for Sanitary Sewer Systems, Water Quality Order No. 2006-0003 (Sanitary Sewer Order) in May 2006 to provide a consistent, statewide regulatory approach. The Sanitary Sewer Order requires public agencies that own or operate sanitary sewer systems to develop and implement sewer system management plans (SSMPs) and report all SSOs.

There have been over 17,000 SSO incidents reported since January 1, 2007 from approximately 1,100 sanitary sewer systems currently enrolled under the Sanitary Sewer Order. Of the approximately 57 million gallons of waste associated with these incidents, about 46 million gallons reportedly reached surface waters. Recent audits revealed that some dischargers are violating the Sanitary Sewer Order and are underestimating the volume of sewage spilled and/or failing to report SSOs. Further, there are numerous sanitary sewer collection systems in the State that have not yet enrolled for coverage under the Sanitary Sewer Order.

The Water Boards will target enforcement resources to address both SSOs and violations of the Sanitary Sewer Order to decrease both the volume and number of SSO discharges through compliance with improved system operations, maintenance, management and performance requirements.

Calendar Year 2010 Performance Outputs:

- Achieve 85% of all enrollees monthly reporting their SSO or No Spill Certifications. The percent reporting has peaked at 80%, but has since declined.
- Achieve a 75% compliance rate for SSMP element certification. The current compliance rate averages approximately 60%.
- Conduct 15 onsite compliance audits to identify Sanitary Sewer Order violations and implement necessary enforcement response.
- Initiate formal enforcement against all SSO incidents where there is a discharge of sewage that reaches surface waters in excess of 50,000 gallons.

More information on the Sanitary Sewer Order can be found at:

http://www.waterboards.ca.gov/water_issues/programs/sso/index.shtml

STORM WATER:

Storm water runoff from urban areas, industrial facilities and construction sites, which is most often discharged untreated, significantly impairs water quality in rivers, lakes, streams, reservoirs, estuaries, near-shore ocean environments, and wetlands. Unmanaged soil disturbance and vegetation removal that occurs during construction increases erosion that results in sediment discharges into waterways. As storm water flows over urban areas and construction and industrial sites, it picks up and carries other pollutants including pathogens, pesticides, petroleum products, toxic chemicals, and debris from the land into water bodies that serve as drinking water, aquatic habitat, and public swimming areas.

The Water Boards regulate storm water discharges under the Municipal Storm Water Permitting program and a variety of statewide general permits including:

- Industrial Storm Water General Permit Order 97-03-DWQ
- Construction Storm Water General Permit Order 2009-0009-DWQ (effective July 1, 2010)
- Caltrans Storm Water Permit Order 99-06-DWQ
- Small Municipal Separate Storm Sewer System Permit Order 2003-0005-DWQ

Enforcement of these permits is a high priority, particularly in areas where discharges may cause or contribute to water quality impairments.

Calendar Year 2010 Performance Outputs:

- For coastal regions, complete compliance assessment of all plastics-related facilities enrolled under the Industrial Storm Water General Permit that were issued an investigation order to conduct a self-compliance evaluation and initiate enforcement actions for all facilities that did not comply with the Permit.
- Complete audits of four Caltrans' Districts.
- For Regions with significant highway construction activity, assess project-specific compliance with Caltrans Storm Water Permit requirements and initiate enforcement actions for violations.

More information about the storm water program can be found at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/index.shtml

MANDATORY MINIMUM PENALTIES:

In 1999, the California Legislature passed SB 709, which required that certain State Water Code violations be subject to mandatory minimum penalties (MMPs). While the Water Boards did begin assessing MMPs after the passage of the bill, a variety of factors led to a backlog of unresolved cases. In 2008, Water Boards commenced a statewide Initiative for MMP enforcement, with the goal of substantially reducing or eliminating the MMP backlog of more than 12,000 violations accumulated between Jan. 1, 2000 and Dec. 31, 2007. The Water Boards have significantly reduced the MMP backlog, and in some regions the backlog has been completely eliminated. As of December 15, 2009, the Water Boards have taken enforcement activities consisting of 135 Administrative Civil Liability (ACL) complaints and 315 expedited payment letters. Out of these 450 enforcement actions initiated, 254 have been completely resolved or settled which has resulted in total liabilities of \$ 18,868,150. Another 40 actions have been dismissed as a result of the updated Water Quality Enforcement Policy.

The goal of this multi-year enforcement priority is to eliminate all existing MMP backlog violations and ensure that all future violations are addressed within 18 months of discovery.

Calendar Year 2010 Performance Outputs:

- State Water Board staff will prepare 45 ACL complaints or orders imposing liability for unresolved MMP violations in the Los Angeles region for the backlog period by December 31, 2010.
- Los Angeles Regional Water Board staff will prepare 40 ACL complaints or orders imposing liability for unresolved MMP violations for the backlog period by December 31, 2010.
- Address each new MMP violation within 18 months of discovery.
- Create an electronic notification system to remind dischargers of upcoming reporting deadlines.

The update on the Water Boards' MMP Initiative is available on-line at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/mmp_update_030110.pdf

WATER DIVERSIONS:

The State Water Board's water rights program ensures the proper allocation of California's water and its efficient use while protecting in-stream beneficial uses. The water rights enforcement activities are an

important component of this mission to ensure compliance with water right permit and license conditions, and to identify those parties who are illegal diverting or storing water without a right.

Originally intended to address concerns over diversions of water from the Sacramento-San Joaquin Delta Estuary, Senate Bill X7-8 was signed into law in November 2009, authorizing 25 new state-wide water right enforcement positions to augment existing enforcement staff. SB X7-8 also enacted new administrative penalties for failure to file Statements of Water Diversion and Use or for filing false information. In May 2010, the State Water Board adopted a Policy for Maintaining Instream Flows in Northern California Coastal Streams (Policy) as part of its State policy for water quality control for the purposes of water right administration. The development of this policy was required by AB 2121 (Stats. 2004) and applies to the counties of Marin, Sonoma, and portions of Napa, Mendocino and Humboldt, encompassing (1) coastal streams from the Mattole River (originating in Humboldt County) to San Francisco, and (2) coastal streams entering northern San Pablo Bay. The Policy focuses on measures that protect native fish populations, with a particular focus on anadromous salmonids and their habitat.

The State Water Board will work with the newly appointed Delta Watermaster to ensure reporting of all delta diverters over the next five years. Under the Policy, our efforts will reduce the number of illegal ponds on Class I Streams that adversely affect native fish populations in the North Coast.

Calendar Year 2010 Performance Outputs:

- Begin work with the new Delta Watermaster and other agencies to identify existing diversions within the Delta Lowlands and confirm that each diversion has an adequate measuring device tracking monthly diversion amounts and that these monthly diversions are reported to the State Water Board.
- Work with the Department of Fish and Game and the National Marine Fisheries Service to initiate investigation and corrective action at 25 illegal reservoirs on Class 1 streams.

The policy may be found at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/instream_flows/docs/ab2121_0210/adopted050410instreamflowpolicy.pdf

ADDITIONAL REGIONAL WATER BOARD ENFORCEMENT PRIORITIES

This section reflects enforcement priorities that a Regional Water Board has identified that are in addition to the statewide priorities described above.

Region 1

- Emphasis will be placed on enforcement of violations subject to discretionary penalties associated with the land disposal of treated wastewater.
- Enforcement will be focused on violations of TMDL implementation provisions for nonpoint source discharges and those discovered through complaint investigations.

Region 2

- Pursue enforcement against recalcitrant parties who are not cleaning up soil and groundwater pollution in a timely manner, particularly where there are clear threats to human and/or ecological health.
- Pursue enforcement for violations of effluent toxicity limits or chronic violations of other limits by wastewater dischargers.
- Pursue enforcement for the unpermitted filling of wetlands or streams and require restoration and/or mitigation for such actions.
- Swiftly respond and enforce against spills or illicit discharges to San Francisco Bay and its tributaries.

Region 3

- Take enforcement actions to ensure compliance with Agricultural Regulatory Order related to water quality standards, enrollment, fees, and reporting requirements.
- Work with other state and local agencies to identify and prosecute illegal conversion of wetlands and riparian habitat to other uses.

Region 4

- Increase enforcement activity by expanding the 401/UST/Remediation pilot to other programs to investigate unpermitted dischargers and facilities not in compliance with regulatory requirements and work with OCC, OE and the AG's office to take formal enforcement actions.

Region 5

- Emphasize enforcement of violations on Irrigated Lands and at Confined Animal Feeding Operations that threaten groundwater and surface water resources.

- Emphasize enforcement of violations of existing formal enforcement orders.
- Take enforcement against dischargers that fail to submit complete self monitoring reports.

Region 6

- Enforce violations of WDRs for discharges that affect underlying groundwater and issue enforcement actions to eliminate the source of the pollution, provide alternative water if pollution is adversely affecting use, and begin groundwater cleanup.
- Enforce requirements to submit and implement plans to increase capacity of municipal treatment and disposal facilities before capacity is exceeded to prevent permit violations and adverse impacts to beneficial uses.
- Enforce requirements to submit complete self monitoring reports at facilities with chronic or significant violations.

Region 7

- Issue Time Schedule Orders to the Cities of Calexico and El Centro (Imperial County) for the earthquake damages from the 7.2 Mexicali event (April 2010) at their wastewater treatment plants
- Eliminate the backlog of actions for Imperial County dischargers that used uncertified labs to analyze effluent bacterial samples.

Region 8

- Enforcement of the provisions of the recently adopted MS4 permits will emphasize compliance with the low impact development (LID) permit aspects to insure implementation of the appropriate control measures for new developments and significant redevelopment projects.
- Initiate enforcement against approximately 40 agricultural dischargers that have failed to comply with the 13267 Orders requiring dischargers to submit a plan for compliance under the Nutrient TMDL Implementation Plan for Canyon Lake and Lake Elsinore.

Region 9

- Emphasize enforcement of violations of existing formal enforcement orders.
- Take enforcement action against violations with severe adverse or potentially adverse effects on public health or environment.
- Pursue enforcement of unauthorized discharges into 303(d) listed surface waters, Areas of Special Biological Significance and other high priority surface waters or high priority ground water basins.

Section 8

8. Initiatives for 2010

A) Government-Owned/Operated Tank Enforcement (GOT) Initiative

Compliance with underground storage tank (UST) leak prevention laws and regulations at government-owned/operated facilities has been an issue for some time. The problem was recognized by the federal government in 2005 when it passed the Energy Policy Act, which included the UST Compliance Act. The UST Compliance Act required a one-time report concerning the compliance status of government-owned and/or operated USTs throughout the nation. In August 2007, the State Water Resources Control Board reported to the United States Environmental Protection Agency ("USEPA") that 415 government facilities (with a total of 634 USTs) were non-compliant.

The most common violations were failure to operate or maintain release detection equipment and failure to maintain and test secondary containment. These violations are considered to be significant because failed monitoring equipment or failed secondary containment threatens the environment by limiting the ability to detect or contain a release of hazardous substances.

This initiative will target noncompliance with state and federal leak prevention laws at facilities that are owned and/or operated by government agencies through targeted inspections and enforcement. The goals of the GOT Initiative are to:

- Eliminate the compliance and enforcement disparity between privately and publicly owned and/or operated underground storage tanks (USTs);
- Enhance consistency throughout the UST program of the State Water Board, on an ongoing basis, to ensure the processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures (consistent with Goal 6 of the Water Board's Strategic Plan); and
- Ensure that human health and the environment are not adversely affected by releases of hazardous substances from USTs owned/operated by government agencies.

Administrative civil enforcement is not available to address UST violations with either injunctive relief or civil liability. Those remedies are only

available via judicial enforcement brought by the Attorney General's Office or a local prosecutor (Health and Safety Code sections 25299 - 25299.02). All formal enforcement cases will be handled through the California Attorney General's Office. Both OE and the Attorney General's Office recognize the unique challenges faced by public agencies in complying with regulatory requirements. While civil liabilities will be evaluated and applied as appropriate, the anticipated enforcement actions will emphasize compliance and corrective action.

Performance Outputs:

1. Perform 30 to 60 inspections at government-owned and/or operated UST facilities within 6 different local agency jurisdictions in a one-year time period. Inspections will be conducted at federal, state, and local owned and/or operated UST facilities.
2. Take enforcement actions against governmental agencies when appropriate to ensure compliance with state and federal UST laws and regulations.
3. Provide an annual report, summarizing activities completed and compare accomplishments with goals.

B) Pretreatment Industrial-User Enforcement (PIE) Pilot Initiative

Pretreatment is the practice of removing pollutants from industrial wastewaters before they are discharged into municipal sewage treatment systems. The General Pretreatment Regulations, 40 CFR 403.1 *et seq.*, establish the responsibilities of government agencies, industries, and publicly owned treatment works (POTWs) to address industrial pollutants that may pass through or interfere with POTWs.

The State Water Board has traditionally played a general oversight role over the program. In the past, the Regional Water Boards have conducted pretreatment compliance audits and inspections of POTWs pursuant to their NPDES permits, focusing on the POTW's implementation of a pretreatment program for their industrial users (IUs). Each regulated POTW is required to have an Enforcement Response Plan. Any enforcement taken by the Regional Water Boards related to pretreatment violations was directed at the regulated POTWs.

Compliance with pretreatment laws and regulations has been an issue for some time. The U.S. EPA Office of Inspector General, which issued an evaluation report in 2004, found that the "*reductions in industrial waste*

discharges to the nation's sewer systems that characterized the early years of the pretreatment program have not endured..." and that "[a]s a result, the performance of EPA's pretreatment program...is threatened and progress toward achieving the Congress' Clean Water Act goal of eliminated toxic discharges that can harm water quality has stalled." In addition, there have been anecdotal accounts of municipalities being unwilling to enforce against major local employers and industrial users re-locating from the service areas of POTWs actively enforcing pretreatment regulations to areas of more lax implementation.

The Pretreatment Industrial-User Enforcement (PIE) Pilot Initiative will cover the direct inspection of industrial dischargers by OE staff and the initiation of formal enforcement against those entities in violation of their pretreatment standards. The goals of the initiative are to:

- Evaluate the competitive advantage gained by noncompliant industrial users over compliant industrial users.
- Evaluate the competitive advantage gained by non-enforcing POTWs over enforcing POTWs.
- Evaluate compliance by industrial dischargers with pre-treatment requirements.
- Gain compliance with pretreatment regulations.

U.S. EPA Region IX has provided the Office of Enforcement with a list of significant industrial users in significant non-compliance based on a review of the 2008 annual pretreatment reports. From this list, Office of Enforcement staff will select an initial pool of 30 industrial users to represent a broad range of industrial activities and geographical areas.

Performance Outputs:

1. Review pretreatment compliance inspection and audit (PCI and PCA) reports and pretreatment annual reports for 2005 through 2009 for selected 30 facilities. For the 30 facilities, determine trends in noncompliance and the impacts of industrial user non-compliance on POTW compliance.
2. Based on the reviews above, conduct a minimum of 18 on-site inspections.
3. Initiate enforcement proceedings against the industrial dischargers based on the findings of the inspections and file reviews.

An evaluation report will be prepared at the conclusion of the Initiative.

C) Mandatory Minimum Penalty (MMP) Enforcement Initiative:

To assist with the reduction of backlogged MMP violations, the Office of Enforcement will lead of team of SWRCB technical staff from OIMA, OE, and DWQ to address MMP violations in the Los Angeles region. As of December 15, 2009, the data indicates that there are still more than 2,500 violations in this Region identified through the MMP Enforcement Initiative that have not yet been resolved. These violations represent more than \$7,500,000 in outstanding monetary liabilities.

The goals of the initiative are to:

- Eliminate the backlog of historic MMP violations in the Los Angeles region.
- Establish a process to expeditiously manage ACL complaints.

Currently, the MMP Enforcement Team is targeting and prioritizing facilities with backlogged MMP violations to be addressed with ACL complaints. The Los Angeles Regional Water Board enforcement staff will address the remainder of the backlogged violations with legal support from the Office of Enforcement.

Performance Outputs:

- Target 45 facilities with backlogged violations to be addressed with ACL complaints in coordination with the Los Angeles Regional Water Board enforcement managers.

Appendix 1: Description of Enforcement Authorities

INFORMAL ENFORCEMENT

For minor violations, the first step is informal enforcement action. The Oral Communication is an action taken directly by staff to verbally inform the discharger of specific violations. A Staff Enforcement Letter (SEL) also notifies the discharger of specific violations but it is in writing and is signed by staff. The Notice of Violation (NOV) letter is also an informal enforcement action. Its purpose is to bring a violation to the discharger's attention and to give the discharger an opportunity to correct the violation before formal enforcement actions are taken. Continued noncompliance should trigger formal enforcement action. A NOV letter should be signed by the Regional Water Board's Executive Officer or Assistant Executive Officer.

TIME SCHEDULE ORDER

Actual or threatened discharges of waste in violation of requirements can result in a time schedule order which sets forth the actions a discharger shall take to correct or prevent the violation [*Water Code section 13300*]

NOTICES TO COMPLY

Notices to Comply are an expedited approach for dealing with minor violations. Commonly referred to as the "fix-it-ticket" legislation, this law requires the use of field-issued notices to comply as the sole enforcement option involving minor violations. [*Chapter 5.8 (beginning with section 13399) of Division 7 of the Water Code.*]

Notices to Comply are ordinarily written during the course of an inspection by an authorized representative of the State or Regional Water Board to require a discharger to address minor violations that can be corrected within 30 days.

CEASE AND DESIST ORDERS

Cease and Desist Orders (CDOs) are normally issued to dischargers regulated by WDRs and often remain in force for years. [*Water Code sections 13301-13303*].

CDOs are typically issued to regulate dischargers with chronic noncompliance problems. These problems are rarely amenable to a short-term solution; often, compliance involves extensive capital improvements or operational changes. The CDO will usually establish a compliance schedule, including interim deadlines (if appropriate), interim effluent limits (if appropriate), and a final compliance date. CDOs may also include restrictions on additional service connections (referred to as a connection ban) to community sewer systems. These have been applied to sanitary sewer systems but can be applied to storm

sewer systems, as well. Violations of CDOs should trigger an ACL or referral to the Attorney General for injunctive relief or monetary remedies.

CLEANUP AND ABATEMENT ORDERS

Cleanup and Abatement Orders (CAOs) are generally issued to dischargers that are not regulated by WDRs. With the exception of groundwater cleanups, CAOs are typically short-lived enforcement orders. [*Water Code section 13304.*]

CAOs are issued by the Regional Water Board, or by a designee, such as the EO, under delegation from the Regional Water Board. [*Water Code section 13223*] Designee-issued CAOs should be used when speed is important, such as when a major spill or upset has occurred and waiting until the Regional Water Board can meet to approve a CAO would be inappropriate. If staff costs are not recovered voluntarily or through civil court actions, the amount of the costs constitutes a lien on the property. Violations of CAOs should trigger an ACL or referral to the Attorney General for injunctive relief or monetary remedies.

MODIFICATION OR RESCISSION OF WASTE DISCHARGE REQUIREMENTS

In accordance with the provisions of the Water Code, and in the case of NPDES permits, the *Federal Water Pollution Control Act*, the Regional Water Board may modify or rescind WDRs in response to violations. Rescission of WDRs generally is not an appropriate enforcement response where the discharger is unable to prevent the discharge, as in the case of a Waste Water Treatment Plant.

ADMINISTRATIVE CIVIL LIABILITY

Administrative Civil Liability (ACL) means monetary assessments imposed by a Regional Water Board. The Water Code authorizes ACLs in several circumstances.

Once an ACL complaint is issued, the discharger may either waive the right to a hearing or appear at the Regional Water Board hearing to dispute the complaint. In the latter case, the Regional Water Board has the choice of dismissing the complaint, adopting an ACL order (ACL amount need not be the same as in the complaint), or adopting a different enforcement order (*e.g.* referral to Attorney General).

ACL actions are intended to address past violations. If the underlying problem has not been corrected, the ACL action should be accompanied by a Regional Water Board order to compel future work by the discharger (*e.g.* CAO or CDO). The following is a list of Water Code sections for which civil liability can be accessed.

<u>Water Code Section</u>	<u>Type of Violation</u>
13261	Failure to furnish report of waste discharge or to pay fees.
13265	Unauthorized discharge of waste.
13268	Failure to furnish technical report.
13308	Failure to comply with time schedule.
13350	Intentional or negligent: (1) violation of CDO or CAO; (2) discharge of waste, or causing or permitting waste to be deposited where it is discharged, into the water of the state in violation of any WDR, waiver condition, certification, Basin Plan Prohibition or other Regional Water Board order or prohibition; or (3) causing or permitting the unauthorized release of any petroleum product to waters of the state.
13385	Violation of NPDES permit, Basin Plan Prohibition, etc.
13399.33	Failure to submit notice of intent to obtain coverage under the appropriate storm water NPDES permit
13627.1	Violations of wastewater treatment plant operators requirements
13627.2	Submitting false or misleading information on an application for certificate or registration for operator certification
13627.3	Failure to provide required registration information by a person or entity who contracts to operate a wastewater treatment plant

REFERRALS TO ATTORNEY GENERAL OR DISTRICT ATTORNEY

The Regional Water Board can refer violations to the state Attorney General or ask the county district attorney to seek criminal relief. In either case, a superior court judge will be asked to impose civil or criminal penalties. In some cases, the Regional Water Board may find it appropriate to request the U.S. Attorney's Office to review violations of federal environmental statutes, including the CWA, *Migratory Bird Treaty Act*, or the *Resource Conservation and Recovery Act*.

a. California Attorney General

The California Attorney General can seek civil enforcement of a variety of Water Code violations, essentially the same ones for which the Regional Water Board can impose an ACL. Maximum per-day or per-gallon civil monetary remedies are two to ten times higher when imposed by the court instead of the Regional Water Board. The Attorney General can also seek injunctive relief in the form of a restraining order, preliminary injunction, or permanent injunction pursuant to *Water Code sections 13262, 13264, 13304, 13331, 13340, and 13386*. Injunctive relief may be appropriate where a discharger has ignored enforcement orders.

For civil assessments, referrals to the Attorney General should be reserved for cases where the violation merits a significant enforcement response but where ACL is inappropriate. A violation (or series of violations) with major public health

or water quality impacts should be considered for referral, to maximize the monetary assessment because of its effect as a deterrent.

b. District Attorney

District attorneys cannot directly pursue the provisions of the Water Code that grant the Water Boards authority to impose an ACL. District attorneys may, however, seek civil or criminal penalties under their own authority for many of the same violations the Regional Water Board pursues. While the Water Code requires a formal Regional Water Board referral to the Attorney General, the Regional Water Board's EO is not precluded from bringing appropriate matters to the attention of a district attorney for enforcement under statutes other than the Water Code.

District attorney involvement should be considered for unauthorized releases of hazardous substances. In most of these cases, the Regional Water Board is not the lead agency, and the referral action is intended to support the local agency that is taking the lead (e.g. county health department or city fire department). Many district attorney offices have created task forces specifically staffed and equipped to investigate environmental crimes including water pollution. These task forces may ask for Regional Water Board support which should be given within available resources.

The district attorney often pursues injunctive actions to prevent unfair business advantage in addition to the criminal sanctions and civil fines.

c. Civil Versus Criminal Actions

Enforcement actions taken by the Regional Water Board are civil actions. In cases where there is reason to believe that individuals or entities have engaged in criminal conduct, the Regional Water Board or EO may request that criminal actions be pursued by a criminal prosecuting office. Under criminal law, individual persons, as well as responsible parties in public agencies and business entities, may be subject to fines or imprisonment.

Table 72: Types and Classification of Enforcement Actions

Types of Enforcement Action	Descriptions	Classification
Verbal Communication	Any communication regarding the violation that takes place in person or by telephone.	Informal
Staff Enforcement Letter	Any written communication regarding violations and possible enforcement actions that is signed at the staff level.	Informal
Notice of Violation	A letter officially notifying a discharger of violations, possible enforcement actions, penalties, and liabilities that is signed by the Executive Officer.	Informal
Expedited Payment Offer	A conditional offer that provides a discharger with an opportunity to resolve any outstanding violations subject to mandatory minimum penalties by acknowledging them and providing full payment of the accrued mandatory penalties identified in the payment letter.	Informal
Notice to Comply	Issuance of a Notice to Comply per Water Code Section 13399.	Formal
13267 Letter	A letter using Water Code Section 13267 authority to require further information or studies.	Formal
Clean-up and Abatement Order	Any order pursuant to Water Code Section 13304.	Formal
Cease and Desist Order	Any order pursuant to Water Codes Sections 13301-13303.	Formal
Time Schedule Order	Any order pursuant to Water Code Section 13300.	Formal
Administrative Civil Liability (ACL) Complaint	ACL Complaint issued by the Executive Officer for liability pursuant to Water Code 13385.	Formal
Administrative Civil Liability (ACL) Order	An ACL Order that has been imposed by the State or Regional Water Board.	Formal
Settlement	A settlement agreement per California Government Code Section 11415.6	Formal
Referral	Referral to the District Attorney, Attorney General, or US EPA.	Formal
Referred to a Task Force	Any referral of a violation to an environmental crimes task force.	Formal
Referral to Other Agency	Any referral to another State agency.	Formal
Third Party Action	An enforcement action taken by a non-governmental third party and to which the State or Water Board is a party.	Formal
Waste Discharge Requirements	Any modification or rescission of Waste Discharge Requirements in response to a violation.	Formal

Appendix 2: Examples of Water Board Enforcement Actions

Statistics alone cannot tell the story of the Water Boards' enforcement efforts. The following are examples of significant enforcement actions taken by the Regional Water Boards from July 2008 to December 2009.

Region 1: North Coast Regional Water Quality Control Board

City of Healdsburg

In January 2010, the North Coast Regional Water Board adopted ACL No. R1-2010-0005 for the City of Healdsburg. This ACL formalized the settlement of an enforcement case that had begun with the issuance of an ACL Complaint in December 2008, proposing a penalty of \$369,000 for permit violations subject to mandatory minimum penalties. Board staff and legal counsel worked with the Discharger's staff and legal counsel to develop a settlement in which the Discharger would pay \$177,000 to the Cleanup and Abatement Account, implement a Supplemental Environmental Project costing at least \$192,000, and dismiss a Petition for Review that it had filed with the State Water Board after the Board adopted WDRs Order Nos. R1-2004-0064 and R1-2004-0065.

http://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2010/100125_10_0005_ACLO_Healdsburg.pdf

City of Ferndale (MMP)

In December 2009, the Regional Water Board adopted ACL order No. R1-2009-0102, for the City of Ferndale, assessing a penalty of \$45,000 for violations of effluent limitations subject to mandatory minimum penalties. The City has been subject to enforcement by the Regional Water Board since 2003 for violations of the 1:100 discharge rate required under the Water Quality Control Plan (Basin Plan) for the North Coast region. In response, the City has developed a plan to comply with the Basin Plan requirements in accordance with a schedule adopted under Cease and Desist Order No. R1-2008-0110. The December 2009 order allows the City to apply \$35,000 of the \$45,000 penalty towards a compliance project which complements the existing enforcement actions and projects, resulting in overall compliance with effluent limitations as well as Basin Plan requirements.

http://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2009/09_0102_ACLO_Ferndale_091216.pdf

Redwood Valley County Water District

In August 2009, the North Coast Regional Water Board issued CAO No. R1-2009-0098 to the Redwood Valley County Water District requiring plans, documents and actions to mitigate the extensive erosion damage and sedimentation caused by two unexpected discharges of large volumes of water from its main pipeline into a small unnamed tributary and the Upper West Fork of the Russian River. The releases caused significant erosion in the small tributary, as well as significant sediment discharges and deposits throughout the tributary and down into the West Fork of the Russian River. The Regional Water Board's CAO was part of a multi-agency response to the incident; staff of the Regional Water Board and OE worked cooperatively with the California Department of Fish and Game and the Mendocino County District Attorney's office in assessing and responding to the incident. This collaborative approach also avoided obstacles to timely implementation of mitigation and repair efforts. To date, the Discharger has complied with the requirements of the CAO, developing and implementing an Erosion Plan, Abatement Plan, and Long Term Plan (implementation efforts still underway).

http://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2009/090828_09_0098_CAO_UkiahSedSpill.pdf

Region 2: San Francisco Bay Regional Water Quality Control Board

C&H Sugar

The San Francisco Bay Regional Water Board and C&H Sugar reached a \$490,000 settlement over an Administrative Civil Liability complaint for alleged discharges of treated wastewater, cooling water, and storm water that did not meet effluent limits established in the NPDES permit. The Regional Water Board alleged that these discharges occurred over an approximately 2-year timeframe. Because of the recurring nature of the violations, the settlement included both discretionary and mandatory penalties. Of the \$490,000 settlement amount, C&H Sugar paid \$258,500 into the Cleanup and Abatement Account and is completing a Supplemental Environmental Project for no less than \$231,500 to preserve land in a trust for habitat and watershed protection.

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2009/R2-2009-0058.pdf

Rodeo Sanitary District

The San Francisco Bay Regional Water Board and the Rodeo Sanitary District reached a \$51,000 settlement over an Administrative Civil Liability complaint for seven alleged discharges associated with the District's use

of chlorine over a 9-month period. Because there had been prior similar violations, this settlement included both discretionary and mandatory penalties. Of the \$51,000 settlement amount, the Rodeo Sanitary District paid \$30,225 to the Cleanup and Abatement Account and is contributing the remaining \$20,775 towards a recycled water project as a Supplemental Environmental Project.

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2009/R2-2009-0046.pdf

Industrial Storm Water Facilities

The San Francisco Bay Regional Water Board addressed noncompliance at industrial facilities associated with the Statewide Industrial Storm Water General Permit (Permit) by elevating enforcement efforts which included:

- Administrative Civil Liabilities in the range of \$26,250 to \$88,700 were assessed to three dischargers for failure to file a Notice of Intent to obtain the Permit.
- Administrative Civil Liabilities in the range of \$4,500 to \$24,200 were assessed to nine dischargers for either failure to submit or late submittal of the annual storm water discharge report.

Staff developed an expedited approach to enforcement for the annual storm water reports due on July 1, 2009 with assistance from the State Water Board's Office of Enforcement. The new approach offered dischargers who had not met the required deadline an early settlement penalty and opportunity to submit a late report.

Region 3: Central Coast Regional Water Quality Control Board

Greka Oil & Gas, Inc. – Oil Spills to Surface Waters

In July 2009, the Central Coast Water Board adopted Resolution No. R3-2009-0054 requesting that the California Attorney General seek civil enforcement in state superior court against Greka Oil & Gas, Inc., based on allegations of multiple waste discharges to waters of the State and/or waters of the U.S. The Water Board's actions followed from staff's recommendation based on evidence that Greka had caused at least 24 discharges of waste to surface waters. The waste included crude oil, produced water, and residuary products of petroleum. The Attorney General is proceeding to develop its case in cooperation with other agencies.

Monterey Peninsula Regional Municipalities Storm Water Management

On September 14, 2009, Central Coast Water Board staff issued an NOV to the eight municipalities participating in the Monterey Regional Storm Water Management Program for violations of the Phase II Small Municipal

Separate Sewer System (MS4) General Permit. Following up on an audit of the regional program, the NOV cited 117 violations, required improvements, and recommended actions regarding the development and implementation of the group's storm water management plan. Water Board staff received the group's response, and is currently evaluating compliance and preparing a formal response.

Ag Program

The Central Coast Regional Water Board took action against five agricultural operations that failed to enroll in the Board's Agricultural Order. Four of the operations settled prior to Board hearings. Settlement terms included program enrollment, payment of past enrollment fees and cooperative monitoring fees, as well as payment of staff's enforcement costs and penalties. A portion of the penalties funded additional cooperative monitoring as supplemental environmental projects. The Regional Water Board adopted an ACL order against the fifth operator with similar terms but a higher relative penalty. These were the Board's first penalty actions for failing to comply with the Agricultural Order.

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/index.shtml

Region 4: Los Angeles Regional Water Quality Control Board

City Of Malibu Administrative Civil Liability

Complaint No. R4-2008-0041 was issued by the Los Angeles Regional Water Board in August 2008, for \$52,375 against the City of Malibu for violation of requirements contained in Order No. R4-2003-0007-DWQ and/or **401 Water Quality Certification**. The City of Malibu (Permittee) built the Solstice Canyon Creek Bridge Replacement Project (Project), located on Corral Canyon Road in Malibu, California. The City of Malibu was alleged to have violated requirements contained in Order No. 2003-0017-DWQ and the 401 Water Quality Certification and did not use best management practices to avoid degrading the water quality. After further investigation and discussion with the Permittee, the Regional Board issued Revised Complaint No. R4-2008-0041-R in the amount of \$30,015 on February 16, 2010 and the original Complaint was rescinded.

Referral to the Attorney General's Office: Sullivan Canyon

On March 31, 2005, Regional Board staff observed the unlawful construction of an access road from the Sullivan Canyon Debris Basin located in the Brentwood district of the City of Los Angeles, north into Sullivan Canyon. The road was being constructed by the Los Angeles

County of Public Works (LACDPW) and the Southern California Gas Company (SCG) in violation of the Clean Water Act, and the California Water Code. The road itself either covered or diverted Sullivan Canyon Creek through the majority of the lower floodplain within the canyon and crossed the creek at several locations further north. In addition, sediment was observed stockpiled on the sides of the road, within the creek itself, and within vegetated riparian areas. The Regional Water Board referred the case to the Attorney General's (AG's) Office for prosecution. The AG's Office filed a civil action against the LACDPW and SCG with the Superior Court in March 2008. In September 2009, a Stipulated Consent Judgment and Final Order was lodged with the Superior Court of the State of California, County of Los Angeles. The County of Los Angeles paid \$100,000 in civil penalties and SCG paid \$425,000 in civil penalties. SCG also paid an additional \$100,000 to fund a Supplemental Environmental Project. Finally, the Order required SCG to repair Sullivan Canyon Road so that it would no longer degrade and deposit more debris into Sullivan Creek.

Region 5: Central Valley Regional Water Quality Control Board

California Department Of Transportation, Caltrans Highway 65 Lincoln Bypass, Placer County

The Central Valley Regional Water Board assessed an Administrative Civil Liability of \$325,000 against Caltrans for a series of discharges of turbid storm water runoff in violation of Caltrans' statewide NPDES storm water permit that took place at the Lincoln Bypass construction site. The penalty was paid in full.

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/placer/r5-2010-0506_enf.pdf

City Of Isleton, Sacramento County

The Central Valley Regional Water Board assessed an Administrative Civil Liability of \$390,000 against the City of Isleton for violations of Waste Discharge Requirements (WDRs). The violations are for raw sewage spills to surface waters of Georgiana Slough, failure to have an operational influent flow meter, and failure to submit a required technical report. The Order requires the City to pay \$15,000 into the Cleanup and Abatement Account and suspends the remaining \$375,000 pending successful completion of the work required in the Order.

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/sacramento/r5-2010-0504_enf.pdf

East Bay Municipal Utility District Freeport Regional Water Authority, Folsom South Canal Connection Project, Clay Station Road To Jack Tone Road, Sacramento/San Joaquin County

The Central Valley Regional Water Board assessed an Administrative Civil Liability of \$212,000 against the East Bay Municipal Utility District for violating the terms of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity, CWA section 401 Water Quality Certification, and Resolution No. R5-2008-0070, Conditional Waiver of Waste Discharge Requirements for the Freeport Regional Water Project. The violations included unauthorized discharges of wastewater, discharges of turbid storm water runoff due to lack of an effective combination of erosion and sediment control Best Management Practices (BMPs), and unauthorized discharges of non-storm water runoff. The penalty was paid in full.

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/sacramento/r5-2009-0557_enf.pdf

Cleanup And Abatement Order Issued To El Dorado County And The United States Department Of Agriculture, Forest Service, Eldorado National Forest For The Rubicon Trail

The Rubicon Trail is an internationally known, historic off-highway vehicle (OHV) trail within the Eldorado National Forest in the Sierra Nevada Mountains. Significant numbers of OHV enthusiasts drive the trail each year which ranges in condition from a well-defined dirt road to granite domes, ledges, and rock debris.

In March 2008, Regional Water Board staff began receiving complaints about water quality impacts along the Rubicon Trail. In the summer of 2008, staff conducted field visits with citizens, environmental groups, and El Dorado County and Eldorado National Forest staff. A short-term sediment study on a portion of the Rubicon Trail was completed in July and August 2008 that estimated the approximate volume of sediment discharging to streams and lakes.

After a lengthy hearing, the Central Valley Water Board adopted CAO No. R5-2009-0030 in April 2009. The order requires El Dorado County and the Eldorado National Forest to cease the discharge of sediment and other wastes due to motorized use of the Rubicon Trail to waters of the state through actions such as

a Water Quality Protection Plan and a Long Term Management Plan that contains monitoring and reporting requirements. The Order requires annual reports describing the progress made in implementing the Plan each year.

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/el_dorado/r5-2009-0030_enf.pdf

Region 6: Lahontan Regional Water Quality Control Board

Spalding Tract Subdivision Septic Systems-Eagle Lake, Lassen County

Eagle Lake is a closed-basin lake that provides habitat to the Eagle Lake trout. In 1984, the Regional Water Board amended its *Water Quality Control Plan for the Lahontan Region* (Basin Plan) to include waste discharge prohibitions against waste discharges containing nutrients to the surface waters and groundwaters of the Eagle Lake basin. Wastewater discharges from on-site wastewater disposal systems (septics) were identified as one of the primary man-made sources of nutrients. Compliance with the prohibition can be achieved by either connecting the property owner's on-site septic tank to the new community wastewater collection and disposal system, or by properly abandoning their on-site wastewater disposal system (septic tank and leachfield). The Spalding Tract Subdivision was the last remaining subdivision in the Eagle Lake Basin that had yet to fully comply with the prohibition. In October 2009, the Lahontan Regional Water Board adopted 74 Cease and Desist Orders for parcels located in the Spalding Tract Subdivision as the latest enforcement action in a string of enforcement actions that began in 1991 and involved 600 properties in the Spalding Tract Subdivision. An additional 45 CDOs are being issued to property owners with more complex issues.

The Spalding Tract community has responded very well to this latest enforcement effort. The combination of the new community wastewater system (providing a feasible method to comply), the property owners' desire to do the right thing, and the Regional Water Board's commitment to enforce the prohibitions, has resulted in approximately 500 properties coming into compliance with the prohibitions. Water Board staff anticipate the majority of the remaining 100 properties will come into compliance with the prohibitions in 2010.

http://www.waterboards.ca.gov/lahontan/board_info/agenda/2009/oct/item9.pdf

Los Ranchos Mobile Home Park, Apple Valley, San Bernardino County

In September 2009, the Lahontan Regional Water Board issued a CAO to the owner of the Los Ranchos Mobile Home Park. The Order addressed odors that were originating from the mobile home park's wastewater treatment facility. The odors were creating a nuisance condition and were the result of multiple operational problems identified by Regional Water Board staff during a series of facility inspections. In response to

informal Water Board enforcement action, the mobile home park owner took some unsuccessful actions to address the offensive odors. It was not until the Water Board issued the CAO that real progress was made.

Water Board staff has worked closely and diligently with the mobile home park owner resulting in operational changes and system improvements that have reduced the odor intensity to an acceptable level. No odor complaints have been received since the issuance of the CAO and staff continue to work on this facility to address additional system and operational problems (e.g., capacity).

<http://ciwqs.waterboards.ca.gov/ciwqs/enfActionDocRetriever.jsp?actID=371584&docID=522413>

Region 7: Colorado River Basin Regional Water Quality Control Board

City of Brawley

The Colorado River Basin Regional Water Board has taken various enforcement actions against the City of Brawley's Wastewater Treatment Plant (WWTP) in Imperial County over the past several years, including a cease and desist order and two Administrative Civil Liability Orders (ACLOs) assessing \$483,750 in penalties. As a result of these enforcement actions, the City has started construction of the WWTP expansion project to bring the discharge from the City WWTP in compliance with its NPDES permit. The cost of the expansion project is over \$21 million. The project will be completed by end of 2011 and is funded by SWRCB SRF loans and federal stimulus grants.

http://www.waterboards.ca.gov/coloradoriver/board_decisions/adopted_orders/orders/2010/0003cdo.pdf

Use of Uncertified Laboratories in Imperial County

The Regional Water Board discovered in late 2008 that most WWTP staff in Imperial County were unknowingly using uncertified laboratories to analyze bacteria in effluent samples. After consulting with the California Department of Public Health ELAP, the regulatory agency responsible for laboratory certification, the Regional Water Board issued 14 separate TSOs in February 2009, requiring each facility to achieve compliance with their NPDES permit monitoring requirements by July 1, 2009. The TSOs required that bacteria samples be hand-delivered to labs in San Diego and San Bernardino Counties at significant cost to the dischargers until a lab was finally certified locally in Imperial County. ACLOs were adopted for several dischargers, assessing penalties for noncompliance of permit

Monitoring and Reporting requirements against the Cities of Brawley and Calexico, McCabe School District, Centinela State Prison, and Country Life Mobile Home Park. Further enforcement actions are pending.

http://www.waterboards.ca.gov/coloradoriver/board_decisions/adopted_orders/orders/2009/0067aclo_calexico.pdf

Noncompliance at Wastewater Treatment Plants

A total of twelve (12) Administrative Civil Liability Complaints (ACLCs) were issued, assessing penalties of \$665,140. In addition, the Regional Board adopted five separate cease and desist orders with time schedules to facilities in Imperial County, requiring a return to compliance for the following facilities:

- McCabe School District WWTP, El Centro, CA
- City of Westmorland WWTP
- Niland Sanitary District WWTP
- Imperial Irrigation District El Centro Generating Station
- City of Holtville WWTP.

Region 8: Santa Ana Regional Water Quality Control Board

Solomon Colors, Inc., Administrative Civil Liability Complaint

Solomon Colors owns and operates a liquid pigments manufacturing and distribution facility located in Rialto, San Bernardino County. The pigments are used for coloring concrete. In March 2009, there was a discharge of pigment-laden water, comingled with storm water, from the facility to a public street that ultimately flowed into Rialto's storm drain system. Before the pigment-laden water entered the municipal storm drain system, it crossed a warehouse parking lot operated by Toys R Us. The San Bernardino County Fire Department, responding to the spill at the nearby Toys R Us facility, reported the incident to the Regional Water Board. Using historical aerial photographs, staff discovered that the facility was in operation since at least November 2003, had prior incidents of spilled pigment, and did not have adequate control measures to prevent the spill of this material to the ground or to prevent tracking onto the streets. (Based on the aerial photographs and rainfall records for the area, it was determined that the facility discharged pigment-laden storm water during at least 64 storm events from 2003 through 2009.) A review of the company's website revealed that the company had obtained coverage under the storm water program for its corporate facility in Springfield, Illinois, but had avoided enrolling in California's statewide General Permit

for Storm Water Discharges Associated with Industrial Activity (Order No. 97-03-DWQ) since it began business in San Bernardino County in 2003.

Based on these findings, the Regional Water Board issued Complaint No. R8-2009-0064, assessing a penalty of \$78,000. Subsequently, Solomon Colors, Inc. settled the Complaint for \$68,000, which included restitution of \$6,202 to Toys R Us towards its cleanup costs.

http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2010/10_009_SolomonColors_Settlement_Agreement_ACL_09_064.pdf

City of Ontario, Administrative Civil Liability Complaint

In 2006, the State Water Board adopted the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ (SSO Order) that prohibits discharges of sewage to waters of the United States. The SSO Order also requires the permittees to develop an effective procedure for responding to sanitary sewer overflows. The sanitary sewer system operated by the City of Ontario falls under the regulatory authority of this SSO Order.

In May 2009, a sanitary sewer overflow from the City of Ontario's sewer system resulted in the discharge of at least 25,500 gallons of sewage to a water of the United States in San Bernardino County. The Regional Water Board's investigation determined that the City was not adequately prepared to provide containment for a protracted overflow event, and failed to recover the sewage once it had been discharged. In this case, the City of Ontario had not developed procedures to access the flood control channel into which the sewage was flowing. Since the City could not gain access to the flood control channel in a timely manner, it failed to construct temporary containment structures to contain and recover the spilled sewage.

The Regional Board proposed a civil liability assessment of \$41,737 for this discharge. The City settled the administrative civil liability complaint by paying the full amount and agreed to make significant improvements to its procedures for addressing sewage overflows in the future.

City of Beaumont, Administrative Civil Liability Complaint

In 2009, the City of Beaumont had at least 9 reported cases of sewage system overflows. Most of these flows percolated into dry creek beds and did not reach any flowing body of water. As such there were only minimal impacts on the beneficial uses from these sewage overflows.

However, such an inordinate number of sewage spills are an indicator of poor operations and maintenance of the sewage collection systems, including its force main, lift stations and gravity flow lines. The City is obligated under the SSO Order to develop and implement a comprehensive Sanitary Sewer Management Plan (SSMP). Beaumont's failure to develop this plan as required by the SSO Order and its failure to take proactive steps to prevent SSOs may have contributed to failures of the force main and the lift stations that caused the sewage overflows. On November 19, 2009, the Regional Water Board issued ACLC No. R8-2009-0068 to the City of Beaumont for the above-stated violations assessing a penalty of \$99,900. The City agreed to settle this Complaint by paying 50% of the assessed amount to the Cleanup and Abatement account and the remaining 50% for a supplemental environmental project. http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_068_ACLC_CityofBeaumont.pdf

Region 9: San Diego Regional Water Quality Control Board

Sanitary Sewer Overflow, Buena Vista Lagoon, Cities of Vista and Carlsbad
In September 2008, the San Diego Water Board adopted ACL Order No. R9-2008-0072 against the Cities of Vista and Carlsbad in the amount of \$1,095,000 for the discharge of 7.3 million gallons of untreated sewage into Buena Vista Lagoon for four days from March 31 to April 3, 2007. Buena Vista Lagoon is a State Ecological Reserve and is listed as an impaired water body under CWA section 303(d) for bacteria, nutrients, and sediment. The discharge of untreated sewage exacerbated impaired conditions and significantly affected beneficial uses by sensitive ecological receptors in the lagoon. The dischargers reported a fish kill of approximately 1,700 individuals along with some bird kills. The California Department of Fish and Game (CDFG) and United States Fish and Wildlife Services reported that the sewage discharge and subsequent repair work impacted the Light-footed Clapper Rail, a Federal and State endangered species. Potential long-term impacts to the lagoon continue to be assessed under the direction of the CDFG and the United States Fish and Wildlife Service. As a part of the Order, the San Diego Regional Water Board approved diverting \$895,000 of the liability to a supplemental environmental project conducted by the National Fish and Wildlife Foundation to provide critical engineering analyses and studies to help restore the habitat and recreational resources of Buena Vista Lagoon. http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2008/2008_0072_Final_ACL_%20pkg.pdf

Sanitary Sewer Overflow, Lake Hodges, City of San Diego

In November 2009, the San Diego Regional Water Board adopted ACL Order No. R9-2009-0172 imposing \$680,278 against the City of San Diego for the release of 381,185 gallons of untreated sewage to Lake Hodges for five days from August 20 through August 24, 2007. The spill was particularly significant because Lake Hodges is a domestic water supply reservoir for communities in north San Diego County. Use of lake water as a potable supply was halted for nine days after the spill was terminated due to major public health concerns over the spread of disease. In addition, Lake Hodges is listed as an impaired water body under Clean Water Act (CWA) section 303(d) for color, manganese, nitrogen, pH, phosphorus, and turbidity. The discharge of untreated wastewater into Lake Hodges exacerbated the impairment conditions. The State Water Board's Office of Enforcement and Office of Research, Planning & Performance significantly assisted the San Diego Water Board in the investigation and prosecution of the case.

http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2009/r9_2009_0172.pdf

Groundwater Cleanup, Ketema Aerospace, El Cajon

Historically, waste generated during the manufacturing process at the former Ametek/Ketema Aerospace Manufacturing Facility in El Cajon included highly acidic liquid waste, spent chlorinated solvents, and considerable amounts of various metallic wastes. This produced one of the largest Trichloroethylene (TCE) plumes in the State. A CAO issued in 2002 required the identification of the extent of the groundwater plume and implementation of appropriate cleanup and abatement measures in a reasonable amount of time.

The San Diego Regional Water Board found that the responsible parties failed to properly implement this CAO. In August 2009, the Regional Water Board adopted ACL Order No. R9-2009-0091 imposing \$1,095,000 against Ametek, Inc. for violations of the Cleanup and Abatement Order (CAO). The Regional Water Board adopted a settlement agreement for \$600,000 and mandated additional monetary penalties of \$495,000 if specified investigation and cleanup actions are not completed to the satisfaction of the Regional Water Board.

http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2009/R9_2009_0091.pdf

OFFICE OF ENFORCEMENT

\$19.5 Million In Judicial Civil Liability Against Equilon Enterprises LLC (Equilon) For Underground Storage Tank Violations

OE's UST Enforcement Unit and legal staff invested significant resources to assist the AG's Office in the development of this case. The investigation revealed that Equilon had minor to moderate UST violations at a representative sample of 20 of its UST facilities statewide. For example, Equilon often failed to perform annual testing within the required time frame and had inadequate monitoring and containment at a number of facilities. As the investigation progressed, other prosecuting offices and regulatory agencies (primarily local agencies including certified unified program agencies (CUPAs)) assisted in the investigation.

The AG's Office reached a settlement with Equilon that resolved all outstanding UST and other hazardous waste and hazardous materials violations at each of Equilon's approximately 500 UST facilities in California. The settlement, entered as a Consent Judgment in November 2009, has a total value of \$19,500,000, broken down as follows:

- \$5 million to the State Water Pollution Cleanup and Abatement Account;
- \$5 million to the Attorney General's Office, Litigation Deposit Fund;
- \$7.8 million to be split among various District Attorney's Offices and CUPAs;
- \$1.7 million in attorney's fees, costs, and restitution with \$100,000 going to the UST Cleanup Fund to partially cover the State Water Board's investigation costs.

In addition, Equilon was ordered to comply with UST leak prevention statutes.

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/equilon_finaljudgment.pdf

\$6.2 Million In Judicial Civil Liability Against The City Of Long Beach For Underground Storage Tank Violations

This case was the first action taken under OE's Government-Owned Tanks Enforcement Initiative which is directed at public agencies with leak prevention violations. OE initiated an investigation of the City of Long Beach's compliance with leak prevention requirements and found that since 2003, the City had failed to perform required testing and monitoring and failed to install leak prevention equipment at 40 of its underground storage tank facilities, many of which are located at City fire and police stations. At one facility located near the ocean, the City failed to stop a release of petroleum constituents that had been ongoing for several years. This investigation culminated in the entry of a consent judgment against the City in January, 2010 in the amount \$6.2 million.

Under the terms of the consent judgment, the City will pay \$1.5 million in penalties, in addition to \$200,000 in reimbursement for the State Water Board's costs of enforcement. The City will also provide \$2.5 million in financial assurances which will become due and payable to the State Water Board if the City violates the underground storage tank laws again during the next five years.

The City will also receive \$2 million in credit against additional penalties for actions it took after the initiation of enforcement to enhance compliance at its tank facilities. Finally the judgment required the City to take out a full page *mea culpa* advertisement in the Sunday Edition of the Long Beach Press Telegram. The judgment did not resolve any liability or responsibility that the City has to cleanup leaks of hazardous substances from its tank systems.

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/longbeach_consentjudgement.pdf

\$1.6 Million in Liabilities Assessed Against the Sewerage Agency of Southern Marin for Discharge of Wastewater into Richardson Bay

The Sewerage Agency of Southern Marin (SASM) discharged 2.45 million gallons of untreated sewage into Richardson Bay on January 25, 2008, and an additional 962,000 gallons of treated but undisinfectated wastewater to Pickleweed Inlet, a tributary to Richardson Bay, on January 31, 2008. OE's Special Investigation Unit investigated these two major discharges and worked collaboratively with the San Francisco Bay Regional Water Board to develop this enforcement action.

OE legal staff represented the enforcement team in negotiating a settlement that includes the assessment of \$1,600,000 in administrative civil liabilities. The settlement was adopted by the Regional Water Board in ACL Order No. R9-2009-0026 issued in April 2009. SASM will pay liabilities of \$800,000 to the CAA. The settlement allows an additional \$800,000 to be spent on the completion of two supplemental environmental projects in the watershed: 1) a five-year \$600,000 private sewer lateral replacement project that will replace pipes that carry sewage from homes to SASM's collection system; and 2) \$200,000 to implement Phase One of the Richardson Bay Audubon Sanctuary's Aramburu Island Clean Up, Restoration, and Enhancement Project.

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2009/R2-2009-0026.pdf

Appendix 3: Clean Water Act Citizen Suits Provisions

As discussed in this report, NPDES permits establish effluent limitations (treated or untreated wastewater from a treatment plant, sewer, or industrial site), monitoring protocols, and reporting requirements. US EPA and the state's enforce violations of the Clean Water Act through civil enforcement and criminal prosecution. To supplement state and federal enforcement of the Clean Water Act, Congress empowered citizens to bring their own lawsuits to stop illegal pollution discharges. The citizen suit authority can be found in Subchapter V, General Provisions, Section 505, of the Clean Water Act (USC 33, Section 1365).

If a violator does not comply with the Clean Water Act or with the regulatory agency's enforcement actions, then any person or entity that either is or might be adversely affected by any violation has the right to file a citizen suit against the violator. Citizens can seek injunctive relief (court orders prohibiting the pollution from continuing), civil penalties, and reimbursement of legal costs and attorneys' fees. Section 505(b) of the Clean Water Act regulates if and when a citizen can sue a polluter or any regulatory agency for their failure to enforce the Clean Water Act. Before a citizen can file a citizen suit against any alleged violator, the Clean Water Act requires citizen plaintiffs to send a 60-day Notice of (their) Intent to File Suit to the entity for its alleged violation, and copy the state regulatory agency and the U.S. EPA Administrator. Receipt of this notice initiates the 60-day period in which the violator must come into compliance with its permit or Administrative Order in order to avoid a court case. This "grace period" allows a violator to comply or temporarily comply. Any citizen can file a suit against any violator of the Clean Water Act, only after the 60th day of the period of notification of Intent to Sue and if the following two actions occurred during the 60-day period: (1) the regulatory agency failed to require a violator's compliance with the Clean Water Act's effluent standards or limitations or with an Order requiring compliance with these standards or limitations, and (2) the regulatory agency did not begin, and did not continue to diligently prosecute a civil or criminal action against the violator.

The Office of Enforcement is now tracking citizen suit notices under the federal Clean Water Act. Tracking began in March 2009. For the months of March – December 2009, OE was made aware of 62 notices of Intent to File Suite under the citizen enforcement action provisions of the Clean Water Act by approximately 20 different parties. OE hopes to prepare an analysis of citizen suit activity once sufficient information has been collected.

Appendix 4: Links To Required Enforcement Reports

State Water Board Enforcement

http://www.waterboards.ca.gov/water_issues/programs/enforcement/

CIWQS PUBLIC REPORTS

http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml

CWC section 13225(e) and (k) Quarterly Enforcement Summaries

Region 1:

http://www.waterboards.ca.gov/northcoast/water_issues/programs/enforcement/

Region 2:

http://www.waterboards.ca.gov/sanfranciscobay/public_notices/pending_enforcement.shtml

http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/tentative_orders.shtml

Region 3:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/index.shtml

Region 4:

http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/

Region 5:

http://www.waterboards.ca.gov/centralvalley/water_issues/enforcement/index.shtml

Region 6:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/enforcement/index.shtml

Region 7: http://www.waterboards.ca.gov/coloradoriver/water_issues/programs/enforcement/

Region 8:

http://www.waterboards.ca.gov/santaana/public_notices/enforcement_summary.shtml

Region 9:

http://www.waterboards.ca.gov/sandiego/water_issues/programs/enforcement/index.shtml

CWC section 13323(e) Quarterly Enforcement Summaries

The list of Administrative Civil Liability proposed and imposed is available at:

<http://ciwqs.waterboards.ca.gov/ciwqs/readOnly/aclReport.jsp>

List of Enforcement Orders

<http://ciwqs.waterboards.ca.gov/ciwqs/enforcementOrders.jsp>



Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

ENFORCEMENT COORDINATORS

North Coast Region (1)
www.waterboards.ca.gov/northcoast
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
Diana Henriouille (707) 576-2350
dhenriouille@waterboards.ca.gov

San Francisco Bay Region (2)
www.waterboards.ca.gov/sanfranciscobay
1515 Clay Street, Suite 1400
Oakland, CA 94612
R2SpillReports@waterboards.ca.gov

Central Coast Region (3)
www.waterboards.ca.gov/centralcoast
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Harvey Packard (805) 542-4639
hpackard@waterboards.ca.gov

Los Angeles Region (4)
www.waterboards.ca.gov/losangeles
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Hugh Marley (213) 620-6375
hmarley@waterboards.ca.gov

Central Valley Region (5)
www.waterboards.ca.gov/centralvalley
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
Dan Radulescu (916) 464-4736
dradulescu@waterboards.ca.gov

Fresno branch office
1685 E Street, Suite 200
Fresno, CA 93706

Redding branch office
415 Knollcrest Drive, Suite 100
Redding, CA 96002

Lahontan Region (6)
www.waterboards.ca.gov/lahontan
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
Scott Ferguson (530) 542-5432
sferguson@waterboards.ca.gov

Victorville branch office
14440 Civic Drive, Suite 200
Victorville, CA 92392-2383

Colorado River Basin Region (7)
www.waterboards.ca.gov/coloradriver
73-720 Fred Waring Dr., Suite 100
Palm Desert, CA 92260
Doug Wylie (760) 346-6585
dwyllie@waterboards.ca.gov

Santa Ana Region (8)
www.waterboards.ca.gov/santaana
California Tower
3737 Main Street, Suite 500
Riverside, CA 92501-3339
Steve Mayville (951) 782-4992
smayville@waterboards.ca.gov

San Diego Region (9)
www.waterboards.ca.gov/sandiego
9174 Sky Park Court, Suite 100
San Diego, CA 92123
Jeremy Haas (858) 467-2735
jhaas@waterboards.ca.gov

**Division of Water Rights
State Water Board**
1001 I Street
Sacramento, CA 95814
Chuck Rich (916) 341-5377
crich@waterboards.ca.gov

**Division of Water Rights cc to
John O'Hagan (916) 341-5368**
johagan@waterboards.ca.gov

★ **State Water Resources Control Board (Headquarters)**
1001 I Street, Sacramento, CA 95814
www.waterboards.ca.gov

Director of Office of Enforcement
Reed Sato

Underground Storage Tanks Enforcement Unit
Kim Sellards (916) 341-5869
ksellards@waterboards.ca.gov

All other Enforcement
Mark Bradley (916) 341-5891
mbradley@waterboards.ca.gov

State of California
Arnold Schwarzenegger, Governor

California Environmental Protection Agency
Linda S. Adams, Secretary

State Water Resources Control Board
Charles R. Hoppin, Chair
Dorothy Rice, Executive Director

