



California Environmental Protection Agency



CALIFORNIA

Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

ENFORCEMENT REPORT

[Per California Water Code Chapter 5.5 Section 13385(o)]

August 18, 2006

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**State Water Boards
Enforcement Report
[Per California Water Code Chapter 5.5 Section 13385(o)]**

This State Water Boards report provides the information directed by Chapter 5.5 Section 13385(o) of the California Water Code, responding to the following provision:

13385 Civil Liability

(o): The state board shall continuously report and update information on its Web site, but at a minimum, annually on or before January 1, regarding its enforcement activities. The information shall include all of the following:

(A) A compilation of the number of violations of waste discharge requirements in the previous calendar year, including stormwater enforcement violations.

(B) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions

(C) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

As directed by this statute, the report is available at the Water Board's website at <http://www.waterboards.ca.gov> .

Executive Summary

This report summarizes information regarding violations of waste discharge requirements and enforcement actions taken by the Regional Water Boards in response to those violations. The report addresses only discharges to surface water because it has been prepared pursuant to Chapter 5.5 of the California Water Code. Chapter 5.5 implements provisions of the Federal Water Pollution Control Act and establishes a regulatory program for discharges to surface water only. This report also contains commentary on performance and follow-up actions.

The Water Boards use the California Integrated Water Quality System (CIWQS) database to track violations and the resulting enforcement actions. The CIWQS database contains information on violations and enforcement actions that have occurred since July 1, 1999.

The major findings of this report are:

- (1) The Water Boards have assessed over \$50 million in civil liabilities over the last several years.
- (2) The Water Boards track thousand of violations each year. The number of violations of waste discharge requirements at National Pollutant Discharge Elimination System (NPDES) wastewater facilities and the number of violations has fluctuated over the past several years with no discernable patterns.
- (3) The percentage of violations linked to a completed enforcement action is low for 2005 (Note some violations may not warrant enforcement).
- (4) A backlog of MMPs developed as the Water Boards adjust to this newly required MMPs for certain reporting violations effective January 1, 2004.
- (5) Although improvements are occurring, data quality and completeness problems persist due to continued reliance on manual review of discharger self-monitoring reports, manual data entry, and implementation of a new data system.

These findings are based on analysis of the data from the CIWQS database as presented in this report.

The Water Boards are undertaking the following actions to address these findings:

- (a) Standardization for efficient processing of permits and MMPs; return saved resources to compliance work.
- (b) Continued development of electronic submittal of compliance information from dischargers to provide dischargers and state staff greater efficiencies and enable more state resources to be devoted to compliance; to date more than 152 dischargers have been trained to submit their monitoring information electronically.
- (c) Public reporting of violation information and compliance rates on the Internet are being developed with the assistance of a public work group, with a goal of achieving continuous reporting.
- (d) Assess scope of violations at federal facilities for discussion with USEPA.
- (e) Make the data reports presented herein available for live, public use on the Internet

Introduction

This report addresses violations of Waste Discharge Requirements for discharges to surface water. Discharges to surface water are issued a combined Waste Discharge Requirements/NPDES permit. The NPDES program is administered by California in accordance with the United States Environmental Protection Agency's approval, and is implemented through Chapter 5.5 of the California Water Code. NPDES Waste Discharge Requirements are usually issued by one of the nine Regional Water Boards. These nine Regional Water Boards and twelve regional offices lie within different watersheds and are as follows (see Appendix A for map and details):

- Region 1 – North Coast Water Board
- Region 2 – San Francisco Bay Water Board
- Region 3 – Central Coast Water Board
- Region 4 – Los Angeles Water Board
- Region 5 – Central Valley Water Board (With Offices in Redding [5R], Sacramento [5S] and Fresno [5F])
- Region 6 – Lahontan Water Board (With offices in South Lake Tahoe [6A] and Victorville [6B])
- Region 7 – Colorado River Basin Water Board
- Region 8 – Santa Ana Water Board
- Region 9 – San Diego Water Board

Four overarching considerations are pertinent to this report: the reporting period, federal facilities, stormwater facilities, and data quality.

Reporting Period

This report includes a compilation of violations that occurred during calendar year 2005 and the enforcement actions in response to those violations. Typically, it takes approximately six months to issue an enforcement action after the violation has occurred; it may take substantially longer for more complex cases, or where staff has been assigned to higher priorities. Also, self-monitoring reports are typically due to the Water Boards 30 to 45 days after the end of the month for which the monitoring was done. This allows for laboratory analysis and transmittal of data. As a result, Water Board staff does not detect violations for several months after they occur. Staff must review the reports, identify the violations and manually enter the information into the data system. Unless specified otherwise, data for the report was extracted from the CIWQS database the week of August 14, 2006.

Federal Facilities

CIWQS database information about federal facilities has become inconsistent and problematic because Water Boards have found it difficult to prevail in enforcement against federal facilities. Federal facilities are shielded from most enforcement actions by sovereign immunity, so enforcement actions are often precluded. Motivation for data entry under these circumstances has declined. For example, San Diego Regional Water Board initially entered all identified violations at federal facilities into the database. The San Diego Regional Water Board discontinued this comprehensive recordation of federal facility violations because of their inability to enforce. Inclusion of this data in summary information about violations and related enforcement has a dramatic and misleading impact on the historic data. For that reason, this report does not include violations and enforcement actions for federal facilities. To ensure the Water Boards are properly addressing violations, a separate assessment of such facilities will be done, and the findings will be discussed with USEPA.

Stormwater Facilities

Two things have occurred with respect to reporting on stormwater enforcement: 1) previously separate wastewater and stormwater enforcement reports were consolidated by statute, commencing January 1, 2005, into this report, and 2) the stormwater program began using the CIWQS data base for recording stormwater violations and enforcement actions. The result is dedicated wastewater and stormwater sections in this report, and a broader stormwater discussion than in past stormwater enforcement reports.

Data quality

Data quality and completeness present an ongoing challenge. Spot checks indicate that data entry is inconsistent between Water Boards and has been delayed in some. The primary reasons for these difficulties are the manual review of monitoring reports, manual data entry, and adjustment to a new data system.

In July 2005, the Water Boards launched a new data system called the California Integrated Water Quality System (CIWQS). Implementation of this system continues, and further development of reporting functionality, development of business rules, and data migration continues. As such, inconsistencies and apparent deficiencies in the data presented in this report do not necessarily reflect inconsistencies in our enforcement program statewide. To address the question of data quality, the Water Board has begun a project that will assess the quality of data in CIWQS by coordinating a data audit and establishing QA/QC protocols to assure that the quality of data remains high into the future.

The functionality expected in CIWQS promises to move us well beyond where we were in terms of data quality, data entry and management, and public access to information on compliance. One of the key elements of this new system is electronic submittal and analysis of monitoring reports, and automated generation and tracking of violation information. Of the 669 non-general NPDES Permits statewide, 152 permits are ready for electronic submittal, and 40 are currently submitting electronic data, alleviating the need for manual review of regular reports from these facilities. We anticipate that as this functionality is implemented for all our NPDES Permits, the quality and completeness of routine compliance monitoring data will improve dramatically.

(A) A compilation of the number of violations of waste discharge requirements in the previous year.

Wastewater

During 2005, there were 2,199 active wastewater facilities regulated by NPDES waste discharge requirements in California. These facilities are divided into two categories:

- Major facilities – Facilities with an average daily discharge greater than 1 million gallons per day or those that pose a high degree of threat to water quality;
- Minor facilities – Facilities with an average daily flow less than 1 million gallons per day and have a lower threat to water quality.

The waste discharge requirements (hereinafter “NPDES permits” or “permits”) are issued as individual permits or as general permits. Dischargers who are eligible for coverage under a general permit must enroll and agree to comply with the conditions of the general permit.

A summary of active NPDES facilities by category and Regional Office is shown in Table 1.

Table 1: NPDES Wastewater Facilities by Category and Regional Office

REGIONAL OFFICE	MAJOR FACILITIES	MINOR FACILITIES			Total
	INDIVIDUAL Permits	GENERAL Permit Enrollees	INDIVIDUAL Permits	Total Minor	
1	14	18	35	53	67
2	60	187	46	233	293
3	18	85	18	103	121
4	45	552	109	661	706
5F	6	24	42	66	72
5R	13	17	53	70	83
5S	37	84	58	142	179
6A	1	15	3	18	19
6B	1	6	8	14	15
7	3	41	17	58	61
8	15	412	28	440	455
9	17	89	22	111	128
Total	230	1,530	439	1,969	2,199

Table 2 lists the total number of violations of NPDES permits by Water Board office for each of the past five calendar years. The table shows a decrease in the number of total violations over the first three years followed by an increase in violations in 2003 and 2004. This increase in the number of violations is mostly explained by the increased diligence in recording violations prompted by the late report MMP requirements commencing January 1, 2004.

Table 2: Number of Violations of NPDES Wastewater Permits, from 2000 to 2005

Violations of NPDES Waste Discharge Requirements						
Regional Office	2000	2001	2002	2003	2004	2005
1	897	531	339	361	580	115
2	414	432	214	153	198	174
3	363	404	325	216	412	372
4	1,183	1,137	1,012	2,131	1,389	1,082
5F	297	564	649	835	411	165
5R	224	94	94	73	49	70
5S	1,106	773	765	970	1,710	1,825
6A	9	11	18	11	9	4
6B	3	10	20	23	21	11
7	128	187	198	315	167	182
8	422	263	121	96	157	81
9	189	191	104	143	466	107
Total	5,235	4,597	3,859	5,327	5,569	4,188

A comparison of the number of violations by Water Board and the number of facilities regulated in that Water Board is provided in Table 3. A comparison of the average number of violations per permitted facility in violation assists in recognizing Water Boards or facilities that have above average and below average compliance rates.

Table 3: Number of Violations Per Wastewater Facility for 2005

Number of Violations Per Wastewater Facility 2005				
Regional Office	NPDES Permits	NPDES Permits Violated	Total Violations	Average number of Violations per Permit in Violation
1	67	20	115	5.8
2	293	26	174	6.7
3	121	44	372	8.5
4	706	236	1068	4.5
5F	72	19	165	8.7
5R	83	24	70	2.9
5S	179	44	1825	41.5
6A	19	2	4	0.0
6B	15	4	11	2.8
7	61	24	182	7.6
8	455	12	81	6.8
9	128	12	107	8.9
Total	2199	467	4174	8.9

The data indicate an uneven distribution of the average number of violations per facility among the different Water Board offices. The reasons for this high

variability include differences in facility-specific requirements, differences in Water Board office processes and priority assigned to report review and data entry, and differences in rates of compliance among dischargers. Variability due to report review and data entry should be reduced with the electronic submittal and analysis being implemented through our improved data system. Another project to standardize permits will reduce the difference in facility specific requirements over the next few years as permits are renewed.

A breakdown of the violation types and the number of those violations that are identified as priority violations is presented in Table 4. A more detailed description of each violation category is provided in Appendix B. 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 Water Quality Enforcement Policy (Resolution No. 2002-0040) (<http://www.waterboards.ca.gov/plnspols/docs/wqep.doc>). A priority violation represents a greater threat to water quality than other violations. Approximately thirty four percent of NPDES wastewater violations have been identified as priority violations.

Table 4: NPDES Wastewater Violations by Category for 2005

Breakdown of the Number of NPDES Violations by Category for 2005					
Description of Violation Category (See Appendix B)	Total Violations		Priority Violations		
	Number	%	Number	% of Total Priority	% of Total Violations
Category 1 Pollutant	1,486	35%	750	52%	18%
Other Effluent Violation	1,082	26%	136	9%	3%
Reporting	657	16%	101	7%	2%
Category 2 Pollutant	505	12%	407	28%	10%
Receiving Water	115	3%	8	1%	0%
Sanitary Sewer Overflow	103	2%	3	0%	0%
Violation of Non-Effluent Permit Condition	85	2%	0	0%	0%
Monitoring	55	1%	1	0%	0%
Acute Toxicity	35	1%	2	0%	0%
Chronic Toxicity	27	1%	12	1%	0%
Enforcement Action	20	0%	11	1%	0%
Other Codes	9	0%	0	0%	0%
Unauthorized Discharge	9	0%	1	0%	0%
Groundwater	3	0%	2	0%	0%
Total	4,191		1,434		34%

Stormwater

At the time of report preparation, there are 29,535 active facilities/permittees regulated by NPDES stormwater permits in California. These facilities are divided into five categories:

- Construction Stormwater Facilities – Dischargers who's projects disturb 1 or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity ([Construction General Permit, 99-08-DWQ](#)). Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade or capacity of the facility.
- Industrial Stormwater Facilities – The Industrial Storm Water General Permit Order 97-03-DWQ ([General Industrial Permit](#)) is an NPDES permit that regulates discharges associated with 10 broad categories of industrial activities.
- Linear Stormwater Facilities –Underground/Overhead Projects disturbing at least 1 acre but less than 5 acres (including trenching and staging areas) are covered by the Statewide General Permit for Storm Water Discharges Associated with Construction Activity from Small Linear Underground/Overhead Projects ([Small LUP General Permit](#))
- Municipal Stormwater Phase I Facilities – The Municipal Storm Water Permits regulate storm water discharges from municipal separate storm sewer systems (MS4s). Under [Phase I](#), which started in 1990, the Water Boards have issued NPDES MS4 permits to permittees serving populations greater than 100,000 people. Many of these permits are issued to a group of co-permittees encompassing an entire metropolitan area.
- Municipal Stormwater Phase II Facilities – Under [Phase II](#), the SWRCB adopted a General Permit for the Discharge of Storm Water from Small MS4s (WQ Order No. 2003-0005-DWQ) to provide permit coverage for smaller municipalities (10,000 to 100,000 people), including non-traditional Small MS4s which are governmental facilities such as military bases, public campuses, and prison and hospital complexes.

The stormwater permits are generally issued as individual permits to the Phase 1 MS4s and as general permits to the other categories. Dischargers who are eligible for coverage under a general permit must enroll and agree to comply with the conditions of the general permit.

A summary of active NPDES stormwater permits by category and Regional Office is shown in Table 5.

Table 5: NPDES Stormwater Permits by Permit Type and Regional Office

Stormwater Permits by Type						
REGIONAL OFFICE	Construction	Industrial	Linear	Municipal Phase I**	Municipal Phase II**	Total
1	449	359	2	7	0	817
2	1,826	1,405	10	76	25	3,342
3	715	395	6	2	4	1,122
4	2,615	2,811	10	100	0	5,536
5F	1,424	597	8	8	0	2,037
5R	511	181	3	2	3	700
5S	3,539	1,144	14	21	34	4,752
6A	144	38	1	4	0	187
6B	954	165	4	1	4	1,128
7	680	175	6	14	0	875
8	3,634	1,555	8	60	0	5,257
9	2,979	716	14	73	0	3,782
Total	19,470	9,541	86	368	70	29,535

Table 6 lists the total number of violations of NPDES stormwater permits by Regional Office for each of the past five years. The table shows fluctuations in the numbers over the last four years. The low number of violations in 2005 reflects a transition of the Stormwater Program into the CIWQS data system.

Table 6: Number of Violations of NPDES Stormwater Permits by Year

Violations of NPDES Stormwater Waste Discharge Requirements					
Regional Office	2001	2002	2003	2004	2005
1	62	51	89	8	4
2	18	105	65	1	7
3	29	96	30	203	31
4	1,185	1,127	715	500	189
5F	5	6	9	106	25
5R	20	128	27	153	37
5S	45	58	219	384	114
6A	32	72	51	78	40
6B	74	15	1	0	1
7	11	21	0	49	2
8	738	388	264	269	47
9	298	599	397	374	128
Total	2,517	2,666	1,867	2,125	625

A breakdown of the storm water violations by violation type for 2005 is presented in Table 7. Approximately six percent of NPDES stormwater violations have been identified as priority violations.

Table 7: NPDES Stormwater Violations by Category for 2005

Breakdown of the Number of NPDES Stormwater Violations by Category					
Description of Violation Category (See Appendix B)	Total Violations		Priority Violations		
	Number	%	Number	% of Total Priority	% of Total Violations
Permit Condition	292	46%	16	42%	3%
Effluent	87	14%	2	5%	0%
Reporting	87	14%	10	26%	2%
BMP	50	8%	0	0%	0%
SWPPP	33	5%	0	0%	0%
Monitoring	29	5%	0	0%	0%
Unauthorized Discharge	23	4%	10	26%	2%
Enforcement Action	7	1%	0	0%	0%
Basin Plan Prohibition	6	1%	0	0%	0%
Unregulated Discharge	6	1%	0	0%	0%
Other Codes	5	1%	0	0%	0%
Failure to Obtain a Permit	4	1%	0	0%	0%
Sanitary Sewer Overflow	2	0%	0	0%	0%
Groundwater	1	0%	0	0%	0%
Other Requirement	1	0%	0	0%	0%
Total	633		38		6%

(B) A record of the formal and informal compliance and enforcement actions taken for each violation.

Wastewater

Enforcement actions taken as a result of a violation are classified as either informal or formal. 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. Formal enforcement actions are statutorily recognized actions to address a violation or threatened violation such as cleanup and abatement orders. Appendix C describes the enforcement options used by the Water Boards.

Table 8: NPDES Wastewater Violations Compared to Completed Enforcement Actions

NPDES Violations and Completed Enforcement Actions				
Regional Office	Total Violations	Total Violations without Completed Enforcement Actions	Total Violations with Informal Enforcement Actions	Total Violations with Formal Enforcement Actions
1	115	90	24	1
2	174	109	12	53
3	372	286	50	37
4	1082	943	54	106
5F	165	161	2	1
5R	70	28	41	2
5S	1825	1769	47	9
6A	4	2	2	0
6B	11	4	6	2
7	182	133	39	19
8	81	79	1	1
9	107	5	89	64
Total	4188	3609	367	295
Percentage		86%	9%	7%

Table 8 shows the number of violations in 2005. It also lists the number of violations for which there is no completed enforcement action (enforcement is still pending for some, but not all, of these violations), the number of violations that are linked to an informal enforcement action, and the number of violations that are linked to formal enforcement actions. The percentages at the bottom show each violation category as a percentage of the total number of violations. The sum of these percentages is greater than 100 percent because one violation can receive multiple enforcement actions.

While Water Board authorities for enforcement are significant, resource levels generally preclude enforcement against every violation. The low numbers of enforcement actions are related to competing priorities and other factors. Discussions of this matter with the Regions showing low numbers of enforcement actions indicate many enforcement actions are pending or have not been entered and linked to the associated violations in the data system.

Stormwater

Table 9 shows the number of stormwater violations. It also lists the number of stormwater violations addressed by informal and formal enforcement actions. The percentages at the bottom show each violation category as a percent of the total number of violations. The sum of these percentages is greater than 100 percent because one violation can receive multiple enforcement actions.

Table 9: NPDES Stormwater Violations Compared to Completed Enforcement Actions in 2005

NPDES Stormwater Violations and Completed Enforcement Actions				
Regional Office	Total Violations	Total Violations without Completed Enforcement Actions	Total Violations with Informal Enforcement Actions	Total Violations with Formal Enforcement Actions
1	4	4	0	0
2	10	7	3	0
3	31	10	24	11
4	202	4	90	119
5F	25	6	19	0
5R	37	6	30	1
5S	114	29	76	15
6A	40	30	10	0
6B	1	0	0	1
7	2	1	1	0
8	47	8	29	10
9	128	6	65	99
Total	641	111	347	256
Percentage		17%	54%	40%

Historically, many violations at stormwater facilities were only entered when an enforcement action was taken, showing an artificially high rate of enforcement responses. Improvements in data entry are being developed to address this issue.

(C) An analysis of the effectiveness of current policies, including mandatory minimum penalties (MMPs).

Mandatory Minimum Penalties (MMPs)

Background

California Water Code section 13385 requires MMPs for specified violations of NPDES permits. For violations that are subject to those MMPs, the Water Board must either assess an Administrative Civil Liability (ACL) for the minimum penalty or assess an ACL for a greater amount. California Water Code section 13385(h) requires a MMP of \$3,000 for each "serious" violation. A serious violation is defined as any waste discharge that exceeds the effluent limitation for a Group I pollutant by 40 percent or more, or a Group II pollutant by 20 percent or more.

The Water Boards are also required by California Water Code section 13385(i) to assess MMPs of \$3,000 for multiple non-serious violations. This penalty applies when

the discharger does any of the following four or more times in any period of six consecutive months:

- 1) Violates effluent limitations;
- 2) Fails to file a report of waste discharge pursuant to California Water Code section 13260;
- 3) Files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
- 4) Violates a toxicity effluent limitation where the WDR does not contain pollutant-specific effluent limitations for toxic pollutants.

California Water Code section 13385(j) includes several limited exceptions to the mandatory minimum penalty provisions. The primary exceptions are for discharges that are in compliance with a cease and desist order or time schedule order under narrowly specified conditions. California Water Code section 13385(k) provides an alternative to assessing MMPs against a publicly owned treatment works (POTW) that serves a small community, "as defined by subdivision (b) of Section 79084". Under this alternative, the Water Boards may require the POTW to spend an amount equivalent to the mandatory minimum penalty toward a compliance project that is designed to correct the violations.

California Water Code section 13385.1, effective January 1, 2004, defines the term "effluent limitation" and expands the definition of a "serious violation" in California Water Code section 13385(h) to include failure to file a discharge monitoring report for each 30 days it is late. Section 13385.1 also re-defines MMPs as applicable only to permits in which the location of the discharge is specified. Most general NPDES permits do not specify the location of discharge and are therefore no longer subject to MMPs for effluent or reporting violations.

Summary of MMP Violations and MMP Enforcement Actions

According to the CIWQS database, 12,311 MMP violations occurred between January 1, 2000 and December 31, 2005. Of these, 5,024 (41 percent) are recorded as having received a minimum or greater penalty. Some portion of the reported effluent violations may qualify for statutory exemptions. MMPs have been issued and recorded in the database for 41% of the effluent violations to date. Enforcement actions are either yet to be recorded or are pending for the majority of the remaining violations.

Table 10 shows the number of violations that have had penalties issued by each Water Board office.

Table 10: Status of Violations Subject to MMPs From January 2000 to December 2005

Violations Subject to MMPs - January 2000 to December 2005				
Regional Office	TOTAL MMP VIOLATIONS	VIOLATIONS With MMP/ACL ENFORCEMENT	VIOLATIONS Without Completed MMP/ACL ENFORCEMENT	% Without
1	377	71	306	81%
2	911	645	266	29%
3	328	293	35	11%
4	5,987	2,039	3,948	66%
5F	463	34	429	93%
5R	121	66	55	45%
5S	2,415	624	1,791	74%
6A	0	0	0	NA
6B	0	0	0	NA
7	583	328	255	44%
8	407	369	38	9%
9	719	555	164	23%
TOTAL	12,311	5,024	7,287	59%

Table 11 lists the number of facilities in each Water Board office that have one or more MMP violations, the number of facilities for which MMPs have been issued for all MMP violations, and the number of facilities that would require at least one enforcement action to cover the outstanding MMP violations. As shown, 623 or more enforcement actions would be necessary to cover the 7,287 violations subject to MMPs.

Table 11: Facilities With MMP Violations and Pending Enforcement Actions January 2000 to December 2005

Facilities With MMP Violations and Pending Enforcement Actions			
Regional Office	Facilities with MMP Violations	Facilities with all MMP penalties issued	Facilities with pending MMP Penalties
1	30	2	28
2	85	30	55
3	31	15	16
4	382	86	296
5F	17	1	16
5R	27	5	22
5S	70	9	61
6A	0	0	0
6B	0	0	0
7	37	3	34
8	48	23	25
9	124	54	70
TOTAL	851	228	623

Effectiveness of Mandatory Minimum Penalties on Violations

Early trends in MMP violations over the last several years indicated an overall reduction in the number of violations at NPDES facilities. We believed that reduction was at least partly a result of increased compliance due to the deterrent effect of MMPs. Recent data shows an increase in violations, but we believe this is partly due to increased emphasis on recording and collecting these mandatory penalties. Additionally, the introduction of MMPs for reporting violations put a greater emphasis on reviewing and tracking all such reports. The Water Boards generally prioritize MMP issuance to facilities with greater compliance problems because of the staff resource costs associated with issuing MMPs and ACLs.

Our transition to a new data system caused a temporary drop in the numbers of MMP violations recorded and linked to the appropriate enforcement actions, limiting our ability to track some violations. We anticipate that electronic submittal and analysis of monitoring reports, and automated generation and tracking of violation information will significantly improve our confidence in the data for MMP violations, and should simplify MMP issuance. This may result in a greater number of known violations to validate and address, an increased need for enforcement responses to these violations, and a commensurate staff cost to issue them.

Overall effectiveness

The data presented in the tables throughout this report provide various perspectives on Water Board effectiveness relative to violations and enforcement actions. Having this data in a database and being able to use it is a significant accomplishment over the last several years. The data also reveals a workload greater than was recognized prior to having the data.

Despite issuing over \$50 million in total penalties over the past several years, and despite the changes from Fiscal Year 1996-1997 when only 5 percent of violations resulted in a formal enforcement action and 1 percent resulted in the assessment of an administrative civil liability,¹ the overall conclusion from review of the data is that the Water Boards need to further improve their effectiveness in handling violations and enforcement actions. However, despite this overall conclusion, there are success stories.

A case in point is an increased emphasis on prioritizing potential enforcement cases to ensure we are addressing the most significant threats. Based on an approach used by the San Diego Water Board, the Water Boards have developed a consistent format for prioritization, and regularly report this information to the State Water Board. Enforcement managers at each Regional Water Board meet regularly to discuss and prioritize potential enforcement cases.

¹ Legislative Analyst Office Analysis of 1999-2000 Budget Bill Resources Department 3 Issues.

Organizationally, the Regional Water Boards have an identified enforcement unit or team, and the State Water Board created an Office of Enforcement in July, 2006 to ensure greater coordination and consistency in enforcement. Enforcement representatives from the State and Regional Water Boards meet regularly to discuss enforcement matters and get feedback on enforcement approaches. The Office of Enforcement is also focusing on increased coordination with local, state, and federal law enforcement agencies, giving the Water Boards more enforcement tools, and more efficient use of resources statewide in addressing water quality problems.

The Water Boards' Water Quality Enforcement Policy was updated in 2002 (<http://www.waterboards.ca.gov/plnspols/docs/wqep.doc>). It creates a framework for identifying and investigating instances of noncompliance, for taking enforcement actions that are appropriate in relation to the nature and severity of the violation, and for prioritizing enforcement resources to achieve maximum environmental benefits.

The Policy includes the following elements:

- An overview of water quality enforcement options.
- A process for identifying enforcement priorities and choosing the appropriate enforcement response.
- Provisions for more efficient use of standardized, enforceable permits and enforcement order language.
- Information to assist in integrated enforcement efforts with other agencies.
- Procedures for response to fraudulent reporting or knowingly withholding data.
- Specific guidance regarding assessment of administrative civil liability, use of supplemental environmental projects and compliance projects, handling of criminal activities, and standards for violation and enforcement reporting.

The concepts and approaches of the Enforcement Policy are sound and provide appropriate approaches, practices, and considerations for effective enforcement. Improved implementation of the Enforcement Policy is needed to achieve its framework for effectiveness. The San Diego Water Board experience demonstrates this.

The Water Boards continue to face multiple competing priorities and pressures that limit our opportunities to implement the Enforcement Policy provisions. Issuing permits, for example, has become more complex and contentious in recent years. It has drawn staff resources away from dealing with violations and enforcement because of discharger reactions and challenges related to the California Toxics Rule, to MMPs, and to other factors. The number of permits each staff is responsible for issuing, overseeing, and enforcing has increased in recent years. MMPs have also changed enforcement priorities by mandating formal enforcement actions in response to violations that, given their relative threat to water quality, were often resolved through informal enforcement actions before. Mandatory issuance of penalties in the hundreds of thousands of dollars for some small communities has had a substantial impact on those communities, disproportionately impacting them relative to larger dischargers.

To overcome these obstacles and improve implementation of the Enforcement Policy, the Water Boards will undertake the following actions to increase staff efficiencies,

prioritize enforcement activities, and increase management oversight and public information:

1. Standardize NPDES permitting to the extent feasible to restore certainty and expectations for staff and dischargers, to restore efficiency and performance to these efforts, and to return diverted staff resources to address violations and enforcement.
2. Standardize the issuance of MMPs to maximize efficiency and minimize the resource impacts of these new requirements.
3. Continued development of electronic submittal and analysis of monitoring reports, and automated generation and tracking of violation information.
4. Development of public reporting of violations and compliance rates of dischargers, both as a disincentive to violate and to build partnerships in enforcement with public interest groups and interested communities. This includes development of a "Compliance Report Card" on the Internet to engage the public in a productive dialogue about discharger performance, environmental effects, Water Board workload, and Water Board performance.
5. Conduct an assessment of violations at federal facilities, and discuss the findings with USEPA.
6. Make the data reports presented above available for live, public use on the Internet.

Appendix A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARDS

North Coast Region (1)

5550 Skylane Blvd, Suite A
 Santa Rosa, CA, 95403
 Catherine E. Kuhlman, EO
 TEL: (707) 576-2220
 FAX: (707) 523-0135

Central Coast Region (3)

895 Aerovista Place,
 Suite 101
 San Luis Obispo, CA 93401
 Roger W. Briggs, EO
 TEL: (805) 549-3147
 FAX: (805) 543-0397

Lahontan Region (6SLT)

2501 Lake Tahoe Blvd.
 South Lake Tahoe, CA,
 96150
 Harold J. Singer, EO
 TEL: (530) 542-5400
 FAX: (530) 544-2271

San Francisco Bay Region (2)

1515 Clay Street,
 Suite 1400
 Oakland, CA, 94612
 Bruce H. Wolfe, EO
 TEL: (510) 622-2300
 FAX: (510) 622-2460

Los Angeles Region (4)

320 W. 4th St., Suite 200
 Los Angeles, CA, 90013
 Jonathan Bishop, EO
 TEL: (213) 576-6600
 FAX: (213) 576-6640

Victorville Office (6V)

14440 Civic Dr, Suite 200
 Victorville, CA, 92392
 Cindi Mitton, SWRCE
 TEL: (760) 241-6583
 FAX: (760) 241-7308

Central Valley Region (5S)

11020 Sun Center Drive, #200
 Rancho Cordova, CA 95670
 Thomas R. Pinkos, EO
 TEL: (916) 464-3291
 FAX: (916) 464-4645

Colorado River Basin Region (7)

73-720 Fred Waring Drive
 Suite 100
 Palm Desert, CA, 92260
 Robert Perdue, EO
 TEL: (760) 346-7491
 FAX: (760) 341-6820

Fresno Office (5F)

1685 "E" Street
 Fresno, CA, 93706
 Loren J. Harlow, AEO
 TEL: (559) 445-5116
 FAX: (559) 445-5910

Santa Ana Region (8)

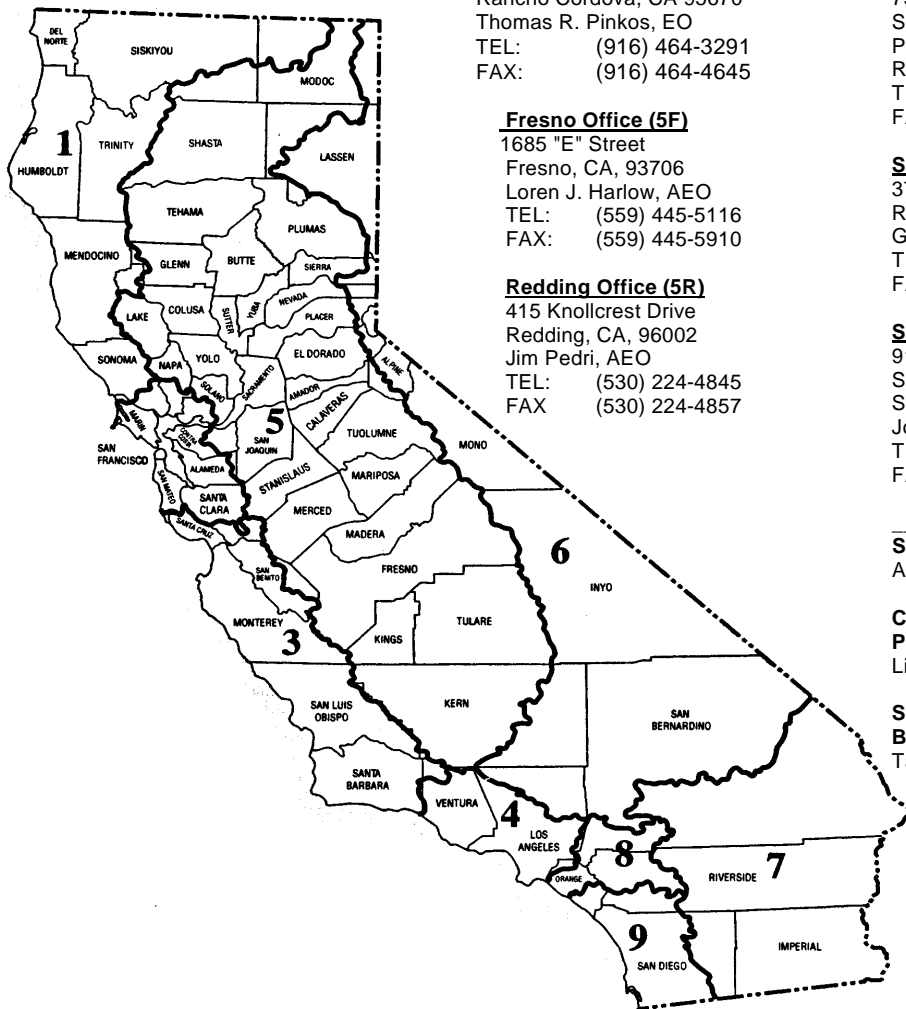
3737 Main Street, Suite 500
 Riverside, CA, 92501
 Gerald J. Thibeault, EO
 TEL: (951) 782-4130
 FAX: (951) 781-6288

Redding Office (5R)

415 Knollcrest Drive
 Redding, CA, 96002
 Jim Pedri, AEO
 TEL: (530) 224-4845
 FAX: (530) 224-4857

San Diego Region (9)

9174 Sky Park Court,
 Suite 100
 San Diego, CA, 92123
 John Robertus, EO
 TEL: (858) 467-2952
 FAX: (858) 571-6972



State of California
 Arnold Schwarzenegger, *Governor*

California Environmental Protection Agency
 Linda S. Adams, *Secretary*

State Water Resources Control Board
 Tam M. Doduc, *Board Chair*

Appendix B

**LISTING AND DESCRIPTIONS OF VIOLATION TYPES USED
IN THE CIWQS DATA SYSTEM**

Category 1 pollutant – Category 1 pollutants as defined by USEPA include:

Oxygen Demand

Biochemical Oxygen Demand
Chemical Oxygen Demands
Total Organic Carbon
Other

Detergents and Oils

MBAS
NTA
Oil and Grease
Other detergents or algaecides

Solids

Total Suspended Solids (Residues)
Total Dissolved Solids (Residues)
Other

Minerals

Calcium, Chloride, Fluoride, Magnesium, Sodium,
Potassium, Sulfur, Sulfate, Total Alkalinity, Total Hardness,
Other Minerals

Nutrients

Inorganic Phosphorus Compounds
Inorganic Nitrogen Compounds
Other

Metals

Aluminum, Cobalt, Iron, Vanadium

Category 2 pollutant – Category 2 pollutants as defined by USEPA:

Metals (all forms) - Other metals not specifically listed under Group I

Inorganics - Cyanide, Total Residual Chlorine

Organics - All organics are Group II except those specifically listed under Group I.

Other effluent violation – Any violation of an effluent requirement not cover under Category 1 or Category 2.

Chronic Toxicity – Violation of a chronic toxicity effluent requirement.

Acute Toxicity – Violation of an acute toxicity effluent requirement.

Violation of Non-effluent Permit Condition – Violation of any permit condition not pertaining to effluent requirements.

Reporting – Late report, failure to submit a report, or a report that is either not complete or contains errors.

Monitoring – Failure to conduct required monitoring

Compliance schedule – Failure to comply with a compliance schedule in a permit. This does not include schedules in an enforcement order likes a Cease & Desist and Time Schedule Orders.

Sanitary Sewer Overflow – Any spill from a sanitary sewer collection system or pump station.

Unauthorized Discharge – Any discharge other than allowed by WDRs that is not a sanitary sewer overflow.

Unregulated Discharge – Discharge from a site not currently under WDRs.

Groundwater – Any release to groundwater that violates permit conditions or basin plan prohibitions.

BMP – Failure to implement proper best management practices.

SWPPP – Failure to complete or update a stormwater pollution prevention plan.

Failure to obtain permit – Failure to obtain the appropriate permit prior to discharge or regulated activity.

Other Codes – Violations of codes sections other that the California Water Code.

Enforcement Action – Failure to comply with a previous enforcement order by not meeting its requirements, its time schedule, or failure to pay penalties.

Basin Plan Prohibition – Violation of any basin plan prohibition.

Appendix C

Types and Classification of Enforcement Actions

Type of Enforcement Action	Description	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 a violation and the possible enforcement actions, penalties, and liabilities that may result. This letter is signed by the Executive Officer.	Informal
Notice to Comply	Issuance of a Notice to Comply per Water Code Section 13399.	Formal
13267 Letter	A letter utilizing 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 Water Board or SWRCB.	Formal
Settlement	A settlement agreement per California Government Code Section 11415.6	Formal
Referral	Referral to the District Attorney, Attorney General, or USEPA.	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