

## STATE WATER RESOURCES CONTROL BOARD

### I. EXECUTIVE SUMMARY

The State Water Resources Control Board (State Water Board) and the California Regional Water Quality Control Boards (Regional Water Boards) are charged with the protection of the waters of the State. To ensure compliance with clean water laws, the State Water Board and Regional Water Boards (Water Boards) issue permits and take enforcement actions for discharges of waste impacting the State's surface and ground waters. The Water Boards regulate more than 40,000 facilities that discharge waste or that may have an impact on water quality. The Water Boards also regulate and enforce water rights in California.

This report primarily addresses enforcement activities within the five core regulatory and water rights programs. During 2008, the Regional Water Boards were supported by 64 enforcement staff and 94 compliance staff within these programs. The State Water Board was supported by 22.5 enforcement staff. Based on information from the Water Boards' database, these staff brought more than 3,252 informal enforcement actions and more than 433 formal enforcement actions, where formal enforcement actions reflect the various enforcement authorities contained in statute. Approximately 259 of the 433 formal enforcement actions established nearly \$28 million in administrative civil liabilities (ACL).

In the Water Boards' "[Baseline Enforcement Report for Fiscal Year 2006-07](#)," released in May 2008, performance measures were identified for the core regulatory enforcement programs. Some of these measures are incorporated into this report. While data is currently available to report on most input and output measures, the programs currently do not track outcomes that measure the environmental benefit of water quality enforcement activity. Enforcement data for the Water Boards is also presented in several other reports, including the "[2008 Enforcement Report](#)," required by California Water Code section 13385(o)<sup>1</sup> and the "[Fiscal Year 2007-2008 Annual Enforcement Report](#)," released in April, 2009. Additional information on the Water Boards enforcement activities is available at: [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/)

#### A) Major Program Highlights

- **Main Accomplishments:**

**The 2008 Statewide Initiative for Mandatory Minimum Penalty Enforcement.** On Jan. 1, 2000, Senate Bill 709 required that certain permit violations under the *Water Code* be subject to mandatory minimum penalties (MMP). While the State Water Resources Control Board and the Regional Water Quality Control Boards (collectively Water Boards) did assess MMPs as a result of the new legislation, the [2007 Water Boards' Enforcement Report](#) showed that 7,880 violations (from Jan. 1, 2000 to Dec. 31, 2007) had not received a penalty at or above the mandatory minimum amount. In February 2008, the State Water Board's Office of Enforcement (OE) began examining many of the violations subject to MMPs in the California Integrated Water Quality System (CIWQS) dating back to January 1, 2000 that had not received an enforcement action to assess a MMP. After discussing the ways to efficiently address these outstanding violations, the Water Boards started the *Statewide Initiative for MMP Enforcement*. In total, State and Regional Water Board staff identified 12,348 backlogged violations from 464 facilities that had not received any enforcement action. As of March 31, 2009, the backlog of MMP violations without enforcement actions had been

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<sup>1</sup> Both reports are available at <http://www.waterboards.ca.gov/>.

substantially reduced. Several Regional Water Boards have addressed all outstanding violations, and most of the remaining Regional Water Boards are nearly finished. The Water Boards have addressed 13,812 MMP violations from 455 facilities statewide through enforcement activities related to the Initiative (which included some violations occurring after the Dec. 31, 2007). The enforcement activities consist of 123 ACL complaints and 332 expedited payment letters. Out of the 455 enforcement actions initiated, 228 matters have been resolved or settled which means that the Initiative resulted in liabilities assessed in the amount of \$15,595,500. A detailed report describing the accomplishments achieved with the initiative is available at the Water Boards web site [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/)

**Enforcement Coordination with the Department of Fish and Game pilot project.** The Department of Fish and Game (DFG) in coordination with Water Board personnel initiated a pilot project to develop a coordinated enforcement response to construction storm water violations. The expected output will be a field manual for joint use by DFG and Water Board staff. The goal of the initiative is to improve the coordination and effectiveness of both agencies' enforcement efforts related to discharges of construction stormwater. [This issue is identified in Action 7.4.1 of the Strategic Plan.](#) For a period of four months, the DFG/Regional Water Board teams completed joint inspections at the identified sites. Some of these joint inspections have led to formal or informal enforcement actions, while other investigations are ongoing. A workshop was held on September 4, 2008 at the Regional Water Board offices to update participating staff from both agencies on the progress made during the joint inspection period. A draft field manual is scheduled to be completed in early 2009. A detailed description of the project is available in the [Annual Enforcement Report for Fiscal Year 2007-2008.](#)

- **National Pollutant Discharge Elimination System (NPDES) Wastewater Program**

- Facilities regulated: 2,037
- Inspections conducted: 639
- Facilities with one or more violations: 601
- Violations documented: 5,417
- Percentage of violations with enforcement actions: 63%
- Enforcement actions issued: 855
- Penalties assessed: \$23,158,206

- **NPDES Stormwater Program**

- Facilities regulated: 28,805
- Inspections conducted: 2,472
- Facilities with one or more violations: 1,389
- Violations documented: 1,873
- Percentage of violations with enforcement actions: 93%
- Enforcement actions issued: 2,139
- Penalties assessed: \$2,757,960

- **Waste Discharge Requirements Program**

- Facilities regulated: 6,731
- Inspections conducted: 780
- Facilities with one or more violations: 825
- Violations documented: 5,179
- Percentage of violations with enforcement actions: 36%
- Enforcement actions issued: 551
- Penalties assessed: \$2,539,690

- **Land Disposal Program**
  - Facilities regulated: 790
  - Inspections conducted: 539
  - Facilities with one or more violations: 115
  - Violations documented: 277
  - Percentage of violations with enforcement actions: 78%
  - Enforcement actions issued: 87
  - Penalties assessed: \$126,950
  
- **401 Certification/Wetlands Program**
  - Projects regulated: 959
  - Inspections conducted: 60
  - Facilities with one or more violations: 12
  - Violations documented: 61
  - Percentage of violations with enforcement actions: 70%
  - Enforcement actions issued: 35
  - Penalties assessed: \$132,375
  
- **Office of Enforcement**
  - Cases Investigated: 323
  - Cases Closed: 19
  - Cases referred to District Attorney: 4
  - Enforcement actions issued: 8
  - Penalties assessed: \$57,500
  
- **Water Rights Enforcement**
  - Facilities regulated: 23,622
  - Inspections conducted: 65
  - Violations documented: 6,240
  - Percentage of violations with enforcement actions: 1%
  - Enforcement actions issued: 137
  - Cases Closed: 195
  - Penalties assessed: \$46,850

## **B) What the Reported Data Tells Us**

An examination of the information presented in this report highlights the ongoing data and resource challenges of the Water Boards. The majority of the information presented 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 Board's water quality programs. For many of the core regulatory programs covered by this report, some data elements are either missing or incomplete. Variation in data entry is apparent from region to region and a lack of data should not be interpreted as inactivity by individual Regional Water Boards. 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.

### Key General Statistics

- In 2008 the Water Boards issued more than 3,700 enforcement actions.
- A total of 274 of enforcement actions with fines were issued during 2008.
- Statewide approximately 2,942 regulated facilities exceeded their discharge requirements at least once during 2008.
- Approximately 186 facilities under the core regulatory programs exceeded their permit limits more than ten times each and for more than one pollutant.
- Of the 274 Administrative Civil Liability (ACL) actions assessed for calendar year 2008, 184 were assessed at the mandatory minimum penalty (MMP) under the NPDES wastewater program, representing approximately two thirds of the total liabilities assessed.

### Enforcement Response

- The amount of fines assessed in 2008 almost doubled compared to the fines assessed in 2007 and tripled compared to 2006. During calendar year 2008, 274 administrative liabilities were assessed for multiple violations resulting in \$28 million in liabilities assessed of which \$10,645,607 has been collected.
- Supplemental environmental projects and compliance projects represent 40% of fines collected.
- Enforcement policies and procedures do not appear to be implemented consistently which is likely due to resource limitations. Not all violations appear to be enforced according to policy and not all detected violations appear to be properly documented.
- Review of self monitoring reports (SMRs) has been substantially backlogged and CIWQS does not consistently track if reports are being received and reviewed.
- The Regional Water Boards are now close to current in addressing violations subject to MMPs. As of March 2009, only 1,709 MMP violations are still required to be addressed as a result of the 2008 Enforcement Initiative for MMP compared to the 12,348 backlogged violations identified in February 2008. This information is now updated on a [quarterly basis](#).

### Data and Databases

- Entry of violation and enforcement data varies significantly among the regions. This limits opportunities to assess the magnitude, frequency and duration of violations necessary to prioritize the limited enforcement resources.
- General use of the CIWQS database is inconsistent among regional boards and programs.
- Ability to conduct historical trends analysis is limited due to the developing nature of the rules for data tracking and reporting.
- In compiling the information in this report, it was apparent that the Water Boards could make significant improvements in tracking the allocation of resources, outputs and time committed to enforcement activities.

### **C) How the Agency Will Use This Information**

The Water Boards are working together to improve the collection of program data and environmental information. The Water Boards are in the process of identifying performance measures for all programs that will align Water Board strategies with environmental results (see [2008 baseline enforcement report](#) for a description of recommended performance measures for the enforcement program). The goal is to develop measurable targets and measurement systems for priority problems. These quantifiable targets should demonstrate improvement in water quality, regulatory compliance, staff efficiency, and program effectiveness. The Water Boards will integrate the data and information collected into its decision making process and everyday activities.

## **II. THE WATER BOARD'S ENFORCEMENT PROGRAM**

### **A) Overview**

#### **Organization of the Report**

The report provides compliance and enforcement information organized by water quality and water rights programs. Water quality programs reflect the different nature of the sources of pollution and the type of waterbody impacted (i.e. surface waters versus groundwater). The water rights program allocates surface waters taking into account prior water rights, the availability of water and the preservation of in-stream uses. This report also provides consistent metrics for the five main water quality core regulatory programs which include NPDES Wastewater, NPDES Stormwater, Waste Discharge Requirements (WDRs), Land Disposal and Wetlands/401. For other Water Board enforcement related activities performed by the Office of Enforcement and the Division of Water Rights, the report uses a combination of performance metrics and descriptive analysis.

#### **Mission Statement**

The mission of the Water Board is: "To preserve, enhance, and restore the quality of California's water resources and ensure their proper allocation and efficient use for the benefit of present and future generations. "

As described in the Water Board's [Water Quality Enforcement Policy](#), the Water Boards are responsible for swift and fair enforcement when the laws and regulations protecting our waterways are violated.

The Water Quality Enforcement Policy supports an environment where every violation should be met with a meaningful response from the Water Board and all significant violations should be addressed by formal enforcement action. Appropriate enforcement discourages violation of laws and instills public confidence. Within the Water Boards' regulatory framework, enforcement actions not only help to protect public health and the environment, but also help to create an "even playing field," ensuring that the regulated community and other water users who comply with the law are not placed at a competitive disadvantage by those who do not.

## Water Boards Enforcement Program Goals/Desired Outcomes

Enforcement is a business function that supports the regulatory programs and authorities of the Water Boards. Compliance assurance and enforcement are integral components of all of the core regulatory programs. Both NPDES permits and WDRs may include a monitoring program to ensure compliance with discharge requirements. Water Board staff conduct inspections to ensure compliance with permits or WDR conditions.

The main expected outcome of enforcement is to encourage compliance. The Water Boards rely on deterrence-based enforcement with a strong and credible threat of punitive consequences to encourage voluntary compliance with water quality protection laws. The immediate goal of enforcement is to discover, document, report and properly respond to all violations in accordance with the water quality enforcement policy.

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

- Ensuring permits are enforceable
- Conducting inspections
- Reviewing discharger Self Monitoring Reports (SMRs)
- 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 Board actions.

The State Water Board's [Water Quality Enforcement Policy](#)<sup>2</sup> describes the 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 benefit. Enforcement strategies range from the most informal to the very formal. An informal enforcement action can be as simple as a phone call or email while the most formal actions involve orders issued by the State and Regional Water Boards and the Attorney General. In between are Notices of Violation, Investigatory Orders, Cleanup and Abatement Orders, Cease and Desist Orders, and referrals for litigation. For the more formal actions, a hearing before the Regional Water Board will generally be necessary. Consistent use of formal enforcement actions to address the most serious violations is a fundamental goal of the Water Boards.

Ideally, serious violations must result in fair and appropriate consequences for the violators including consistent application of penalties and other wide-ranging sanctions available to the Water Boards by law. Moreover, penalties must be calculated to eliminate the economic advantage achieved through noncompliance with water quality laws

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<sup>2</sup> SWRCB Water Quality Enforcement Policy, February 19, 2002.

## Organizational Structure

The Water Boards regulate water quality and administer a system of water rights in the state. The Regional Water Boards, funded and under the oversight of the State Water Board, implement water quality programs in accordance with policies, plans, and standards adopted by the State Water Board.

The Water Boards are organized by regional watersheds and by programs. Every program has an enforcement component and every Regional Water Board coordinates its enforcement activities through an enforcement coordinator. For the last several years, the Regional Water Boards have been improving their enforcement structure by separating staff responsible for compliance and enforcement of Water Board programs from those responsible for writing the permits. All of the Regional Water Boards have also created dedicated enforcement units that assume responsibility for much of the enforcement activity within a region. The Office of Enforcement at the State Water Board coordinates enforcement activities statewide.

The Water Boards also work with federal, state and local law enforcement, as well as other environmental agencies to ensure a coordinated approach to protecting human health and the environment.

Coordination between the nine Regional Water Boards and the State Water Board occurs through the enforcement roundtables and other Regional and State Water Board management meetings.

## State Water Board

The State Water Board consists of five full-time salaried members, each filling a different specialty position. Board members are appointed to four-year terms by the Governor and confirmed by the Senate.

The State Water Board carries out its water quality responsibilities by (1) establishing discharge policies and standards; (2) implementing programs to ensure that the waters of the State are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants for the construction of wastewater treatment, water reclamation, and storm drainage facilities among others. Waste discharge permits are issued and enforced mainly by the Regional Water Boards, although the State Water Board issues some permits and initiates enforcement actions when deemed necessary.

The State Water Board is also responsible for the allocation of water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

In February 2002, the State Water Board adopted the [Water Quality Enforcement Policy](#). The primary goal of this policy is to create 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 State Water Board is currently in the process of [updating](#) the February 2002 Enforcement Policy.

## Regional Water Quality Control Boards

There are nine semi-autonomous Regional Water Boards statewide comprised of nine part-time Board members appointed by the Governor and confirmed by the Senate. Regional boundaries are based on watersheds and water quality requirements are based on the unique differences in climate, topography,

geology and hydrology for each watershed. Each Regional Water Board makes critical water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement action.

All of the nine Regional Water Boards now have a dedicated enforcement unit to conduct many of the compliance and enforcement activities. Typical resources in the enforcement units may also include students and retired annuitants that support the work of regular staff. The main functions of the enforcement units include compliance checking, enforcement and permitting for all or some of the programs. In addition to the dedicated enforcement units in most of the regions, some programs, in some regions, continue to conduct their own compliance assurance and enforcement activities.

Approximately 158 Regional Water Board staff conduct compliance assurance and enforcement activities statewide.

Most Regional Water Board enforcement units focus their attention on the five core regulatory programs such as NPDES or WDRs. The rest of the programs generally use their staff for both permitting, compliance assurance and enforcement activities where applicable (not all programs have a permitting and enforcement element).

In general, prosecution is conducted with the assistance of the Regional Water Boards' legal counsel and the State Water Board's Office of Chief Counsel and Office of Enforcement.

## **B) Water Quality Core Regulatory Enforcement Components**

This report provides information on specific measures for the five core regulatory programs for which enforcement resources are most significant and a description of other enforcement activities. The five core regulatory programs described in this report include:

- National Pollutant Discharge Elimination System (NPDES), Wastewater
- National Pollutant Discharge Elimination System (NPDES), Stormwater
- Waste Discharge Requirements (WDR)
- Land Disposal
- Wetlands and 401 Certification

The report also includes information on the following programs in which enforcement is significant but are not considered core water quality regulatory programs:

- Water Rights Enforcement
- Operator Certification
- Underground Storage Tank

Enforcement coordination for the core water quality regulatory programs is accomplished through regular program roundtables. The Division of Water Quality at the State Water Board is responsible for ensuring that policies and guidelines are implemented consistently across Regional Water Boards and programs and supports 15 programmatic roundtables to coordinate these efforts.

## Description of Five Core Regulatory Program Components

### a. Organization of the Report

The following table summarizes the basic statistics for the five core water quality regulatory programs at the Water Board.

Program 2008 Metrics	NPDES Waste Water	NPDES Storm Water	WDR	Land Disposal	401 Wetland
Regulated Universe	2,037	28,847	6,731	790	959
Total Program Staff (PY) for Fiscal Year 08/09	98.7	96.6	80.4	70.8	18.8
Program BUDGET FY 08/09	\$22,527,653	\$19,233,983	\$14,489,391	\$12,144,721	\$2,908,864

### b. National Pollutant Discharge Elimination System (NPDES) Wastewater Program

The NPDES Wastewater Program regulates the discharge of wastewater from point sources to surface waters (rivers, lakes, oceans, wetlands, etc), and discharges of treated groundwater to surface water. NPDES permits, issued by the Water Boards, are required for all point source pollution discharged directly into California's surface waters. Point source discharges are defined as planned, non-agricultural waste discharges from man-made conveyance systems. The [NPDES program](#) is mandated by the Clean Water Act and administered by the State. California has approximately 2,037 active NPDES permits protecting the State's water resources from industrial, municipal waste and other type of discharges.

The following table shows the number and type of permits regulated under the NPDES program:

<u>Major</u> Wastewater Dischargers Regulated Under <u>Individual</u> Permits:	267
<u>Minor</u> Wastewater Dischargers Regulated Under <u>Individual</u> Permits:	379
<u>Minor</u> Wastewater Dischargers Regulated Under <u>General</u> Permits:	1,391
<b>Total NPDES Wastewater:</b>	<b>2,037</b>

The NPDES Wastewater, NPDES Stormwater program and 401 Certification program are mandated by the federal Clean Water Act and administered by the State. The NPDES program is delegated to the State Water Board.

Funding for the NPDES program is partially provided by US EPA through grants and the Federal Trust Fund. The State Water Board and [US EPA Region 9](#) coordinate the implementation of the Surface Water Programs, under a Strategy Agreement in accordance with the 2003 California Clean Water Partnership Agreement.

The Clean Water Act Section 106 work plan for fiscal years 2008-2013 for California Water Boards identifies the expected compliance and enforcement activities. Inspections are to be conducted in conformance with the 2006 NPDES Memorandum of Agreement And all major dischargers are to 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 a permit cycle. The workplan also identifies specific compliance and enforcement information that the Water Boards must submit to US EPA on a regular basis. Specifically, the Regional Water Boards are to report quarterly on all major NPDES dischargers in either significant or reportable noncompliance on the Quarterly Noncompliance Report (40 CFR, section 123.45).

US EPA also provides funding for direct contract assistance for inspections, audits and database development.

#### c. National Pollutant Discharge Elimination System (NPDES) Stormwater Program

The NPDES Stormwater Program regulates stormwater discharges generated by runoff from land and impervious areas such as paved streets, parking lots, industrial and construction sites during rainfall events. 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).

The following table shows the number and type of permittees regulated under the [stormwater program](#):

Construction Stormwater: (regulated under 1 general statewide permit)	18,471
Industrial Stormwater: (regulated under 1 general statewide permit)	9,868
Municipal Phase I: Individual MS4 Permittees (26 permits)	317
Municipal Phase II: State Board General MS4 Enrollees (1 permit)	149
<b>Total Stormwater:</b>	<b>28,805</b>

#### d. Waste Discharge Requirements (WDR) Program

The WDR Program regulates the discharge of wastewater from point sources to land and groundwater, waste generated from confined animal facilities (agricultural operations where animals are kept and raised in confined situations such as dairies, feedlots, stables, and poultry farms) and all other pollution sources that can affect water quality not covered by other programs.

Under the [WDR program](#), the Water Boards regulate liquid waste disposal impoundments and similar land disposal systems for liquid and solid wastes. The WDR program is authorized by provisions of the California Water Code. The permitting system addresses many types of waste discharges, including municipal, industrial and commercial sources. This system helps to protect California's groundwater resources from being adversely impacted from such waste disposal operations. Groundwater is an important source of water for the State as drinking water, for crop irrigation water and for water used in industrial and commercial operations. California has approximately 6,731 active WDRs protecting groundwater resources. The following table shows the number and type of permits regulated under the WDR program:

Wastewater Treatment Plants Discharging to Land:	1,694
Industrial Wastewater and Food Processing Plants Discharging to Land:	967
Wastewater Collection Systems (sanitary sewer overflow prevention):	1,077
Dairies and Confined Animal Facilities:	1,516
Recycled Water Use, Timber Harvest Activities and Other Activities:	1,477
<b>Total WDR/Non 15:</b>	<b>6,731</b>

**e. Land Disposal Program**

The Land Disposal Program 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. The Water Boards are specifically required to develop regulations to “ensure” adequate protection of water quality and statewide uniformity.

Statewide, approximately 790 sites are currently regulated under the program along with about 1,800 historic (i.e. closed, inactive and abandoned) facilities. About 140 of these regulated sites are active municipal solid waste landfills.

The following table shows the number and type of permits regulated under the [Land Disposal program](#):

Landfills:	280
Other (Surface impoundments, waste piles, and land treatment units, etc.)	510
<b>Land Disposal:</b>	<b>790</b>

**f. Dredge/Fill (401 Certification) and Wetlands Program**

This program regulates the dredging and disposal of sediments, filling of wetlands or waters, and any other modification of a water body.

The [401 regulatory program](#) uses waste discharge requirements to regulate discharges of dredged or fill material into State waters, including wetlands, riparian and headwater areas. Dredge or fill activities can involve channelization of streams, diversions, road and trail crossings, release of sediments that harm aquatic resources and water quality, and the release of toxic materials from re-suspending pollutants adsorbed by bottom sediments. The Water Boards issue approximately 1,000 Water Quality Certifications permits (§ 401) annually. If the discharge of dredge and fill is to strictly state waters, then the Water Boards issue Waste Discharge Requirements. Enforcement of 401 certification permits is also conducted by the US Army Corps of Engineers’ 404 permit enforcement.

**2) Enforcement Program Metrics**

Data characteristics and conceptual model

Enforcement measures can be organized by the type of activity at each step in the compliance assurance and enforcement process. The Water Boards compliance assurance and enforcement strategy for the five core regulatory programs starts with monitoring compliance. Once violations are detected they must be properly

documented electronically and in the case files. The next step is to enforce the violations according to the Water Boards enforcement policy. Finally, all of the information collected will be shared with the public. Some of the basic management questions that can be answered through the use of performance measures for compliance and enforcement include:

	<b>Compliance Monitoring and Detection</b>	<b>Compliance Documentation</b>	<b>Enforcement</b>	<b>Information Sharing</b>
<b>Inputs</b>	What resources are available for monitoring and inspection?	What resources are available for documenting compliance?	What resources are available for enforcement?	What resources are available for information sharing?
<b>Activities</b>	What is the strategy to monitor compliance?	What is the process to document compliance?	What is the enforcement process?	What is the current approach to make information available?
<b>Outputs</b>	Is compliance assessed?	Is compliance documented?	Are violations enforced according to policy?	Is compliance and enforcement information available?
<b>Outcomes</b>	Is compliance achieved?	Is compliance information stored, available and useful?	Is enforcement effective in ensuring compliance?	Is compliance and enforcement information useful/used?

For each category we can measure the resources available and used (inputs), the activities conducted, the products produced (outputs) and the environmental results (outcomes).

The data and statistics in this report are drawn directly from the CIWQS database and directly from the Regional Water Board enforcement coordinators and State Water Board program managers. It is important to note that while the CIWQS database was deployed in 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. New business rules for data entry were implemented as the system was deployed and new information was required. Also the time needed to complete information for violations or compliance records was increased significantly. All of these factors affect the quality of the data and our ability to compare the data before and after June 2005.

CIWQS will provide the Water Boards with important compliance and water quality information to allow for better targeting of resources to areas of greatest need.

#### Enforcement Program Resources

Most compliance, investigation and enforcement activities are performed at the nine Regional Water Boards. Resources dedicated to compliance and enforcement activities vary significantly across both Regional Water Boards and programs.

The inputs, or resources for water quality protection, support many activities from planning and permitting, to taking eventual enforcement. Compliance and enforcement activities can require a high level of specialization and skill, from documenting inspections, identifying violations, preparing enforcement cases, to presenting expert testimony at hearing. Inspectors at the Water Boards ensure that requirements are complied with, review discharger's SMRs, and document violations in the database. Once violations are identified and documented, they are prioritized for enforcement. Cases are developed with the advice and assistance from the Water Boards' staff counsels. The Water Boards have approximately 158 staff dedicated to compliance and enforcement activities statewide. Permitting staff may also be involved in some enforcement activities.

The Office of Enforcement at the State Water Board had 22.5 staff dedicated for special investigations and enforcement during 2008. These staff included a team of 10 prosecutors assisting Water Board staff with their enforcement cases.

The Water Rights enforcement program at the State Water Board had 6.5 staff dedicated to enforcement during 2008.

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

The table below shows Regional Water Board resources devoted to compliance and enforcement activities.

<b>PROGRAM 2008 METRICS</b>	<b>NPDES WASTEWATER</b>	<b>NPDES STORMWATER</b>	<b>WDR</b>	<b>LAND DISPOSAL</b>	<b>401 WETLANDS</b>
<b>Number of Total Staff (PY) in Program</b>	98.7	96.6	80.4	70.8	18.8
<b>Average Number of Permits/PY</b>	21	299	84	11	51
<b>Enforcement Dedicated Staff (PY)</b>	40	48	29	39	2
<b>Number of Permits Overseen Enforcement for Each Enforcement PY</b>	51	601	232	20	480

The table shows that, on average, each staff person dedicated to compliance and enforcement activities must review monitoring reports, inspect and provide enforcement for 51 NPDES Wastewater Treatment Facilities. This number varies significantly among programs with 601 facilities under the NPDES Stormwater Program, 232 under the Waste Discharge Requirements Programs and 480 for 401 certifications. The Land Disposal program has a lower number of facilities per dedicated enforcement staff reflecting the higher degree of compliance assurance and supervision (frequency of inspections) that landfills and other facilities regulated under the Land Disposal program require.

#### Enforcement Outputs and Activities

There are three main types of activities directly related to the Water Boards' enforcement program. First are activities to assess compliance with requirements. Those include reviewing monitoring reports and conducting inspections, documenting and recording violations and finally, ensuring that violations receive an appropriate level of enforcement to encourage compliance and deter non-compliance.

**Inspections and Monitoring Reports:** Compliance inspections provide the Water Boards an opportunity to verify that information submitted in Self Monitoring Reports (SMRs) is complete and accurate. Compliance inspections address compliance with waste discharge requirements, laboratory quality control and assurance procedures, record keeping and reporting, time schedules, best management practices, pollution prevention plans, and any other requirements.

The frequency of inspection varies from program to program and with facility type. The frequency depends on the risk, the threat to water quality and state and federal mandates. For example, facilities with a high threat to water quality, such as landfills and large waste water treatment plants may be inspected more than once per year whereas small facilities with a lower threat may be inspected once every five years.

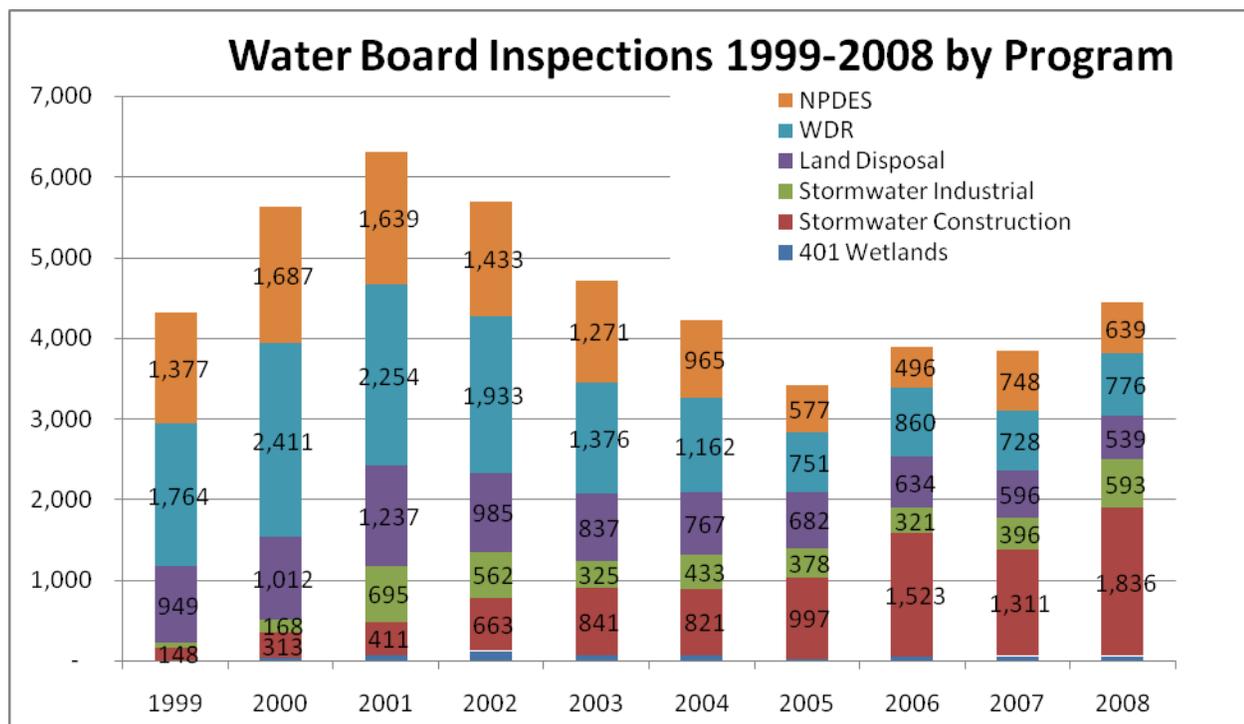
PROGRAM 2008 METRICS	NPDES WASTEWATER	NPDES STORMWATER	WDR	LAND DISPOSAL	401 WETLANDS
Monitoring Reports*	>12,000	>10,000	>19,000	>2,000	N/A-
Inspections	639	2,472	780	539	60-
Facilities Inspected	552	2,028	669	379	43
Percentage of Facilities Inspected	27%**	7%	25%***	47%	N/A-

\* The number of monitoring reports is estimated.

\*\* Note that for the NPDES Wastewater program, 68% of facilities classified as major were inspected during calendar year 2007.

\*\*\* Does not include Collection Systems, Timber Harvest, Dairies, Water Use Recycling, and Other type facilities.

The following graph shows the number of inspections conducted under each core regulatory program and documented in our CIWQS database since 1999.



**Violations detected and documented:** Documenting violations is a key element in the Water Boards' enforcement strategy. Violations are detected through the review of discharger's SMRs and through inspections conducted. Staff tracks and documents the violations in the Regional Water Boards' case files and in the data management system (CIWQS).

<b>PROGRAM 2008 METRICS</b>	<b>NPDES WASTEWATER</b>	<b>NPDES STORMWATER</b>	<b>WDR</b>	<b>LAND DISPOSAL</b>	<b>401 WETLANDS</b>
<b>Total Number of Violations</b>	5,417	1,873	5,179	277	61
<b>Number of Priority Violations</b>	2,481	304	1,073	2	23
<b>Facilities With Violations</b>	601	1,389	825	115	12
<b>Facilities With Priority or Chronic Noncompliance Problems</b>	368	240	413	3	7

Violations are assessed for priority for enforcement according to the Water Boards Water Quality Enforcement Policy. A breakdown of violation types and the number of violations is presented in the following table. For the NPDES Wastewater and NPDES stormwater, a more detailed description of each violation category is provided in the 2008 mandated [13385\(o\) report](#).

2008				
VIOLATION TYPE	NPDES WASTEWATER	NPDES Stormwater	Waste Discharge Requirements	Land Disposal
Effluent Category 1 Pollutant	1,877		820	
Reporting Late Report	981	1,026	1,232	26
Reporting Deficient Report	745	6	777	47
Effluent Category 2 Pollutant	662	1	18	
Effluent Other Effluent Violation	599	1	526	
Deficient Monitoring	100	19	494	92
Unauthorized Discharge	90	83	65	12
Violation of Non-Effluent Permit Condition	89	70	618	44
Failure to Implement Best Management Practices	73	420	4	1
Water Quality Effluent	65	5	103	
Receiving Water Surface Water	39		9	4
Effluent Acute Toxicity	32			
Other Reporting	17	79	25	9
Effluent Chronic Toxicity	15			
Sanitary Sewer Overflow/Spill/ Calculation	13 4	5	289	1
Water Quality	4	2	4	7
Monitoring	3	3	33	6
Other Codes	3	1	37	2
Other Requirement	2	5	9	1
Basin Plan Prohibition	1	5	22	
Failure to Pay Fees	1	10		1
Pretreatment Requirements	1	1		
Stormwater Pollution Prevention Plan Enforcement Action	1	123 4	7	2
Receiving Water Groundwater			87	22
Stormwater Non-filer		4		
<b>TOTAL</b>	<b>5,417</b>	<b>1,873</b>	<b>5,179</b>	<b>277</b>

Types of violations differ among programs. The most common documented type of violation is the failure to submit a required report.

Under the NPDES program certain violations, classified as serious and chronic, are subject to a mandatory minimum penalty (MMP) of \$3,000 per violation<sup>3</sup>. Updated information on the number and status of MMP violations is available at the Water Boards web site in the [Quarterly Update](#) of the 13385 report.

<sup>3</sup> For a more detailed description and analysis of MMPs see the 2007 section 13385(o) Water Boards Enforcement Report

**Enforcement Actions:** The following table shows the number of formal enforcement actions taken by the Regional Water Boards during calendar year 2008. As detailed in the Water Quality Enforcement Policy, the Water Boards use progressive enforcement to initiate corrective actions. For some violations, an informal response or a Notice to Comply is sufficient to inform the discharger of the violation resulting in a swift return to compliance. If the violation continues, the enforcement is escalated to increasingly more formal and serious actions until compliance is achieved. Formal enforcement may also be an appropriate first response for serious violations.

The following table summarizes the number and type of actions for each core regulatory program during calendar year 2008. Level 1 enforcement includes actions that notify dischargers of violations and may require compliance informally and also may be used to investigate or to require specific information. Level 2 enforcement are actions that require compliance with requirements. Level 3 enforcement are those actions that may result in imposition of fines, liabilities or the completion of compliance projects or supplemental environmental projects.

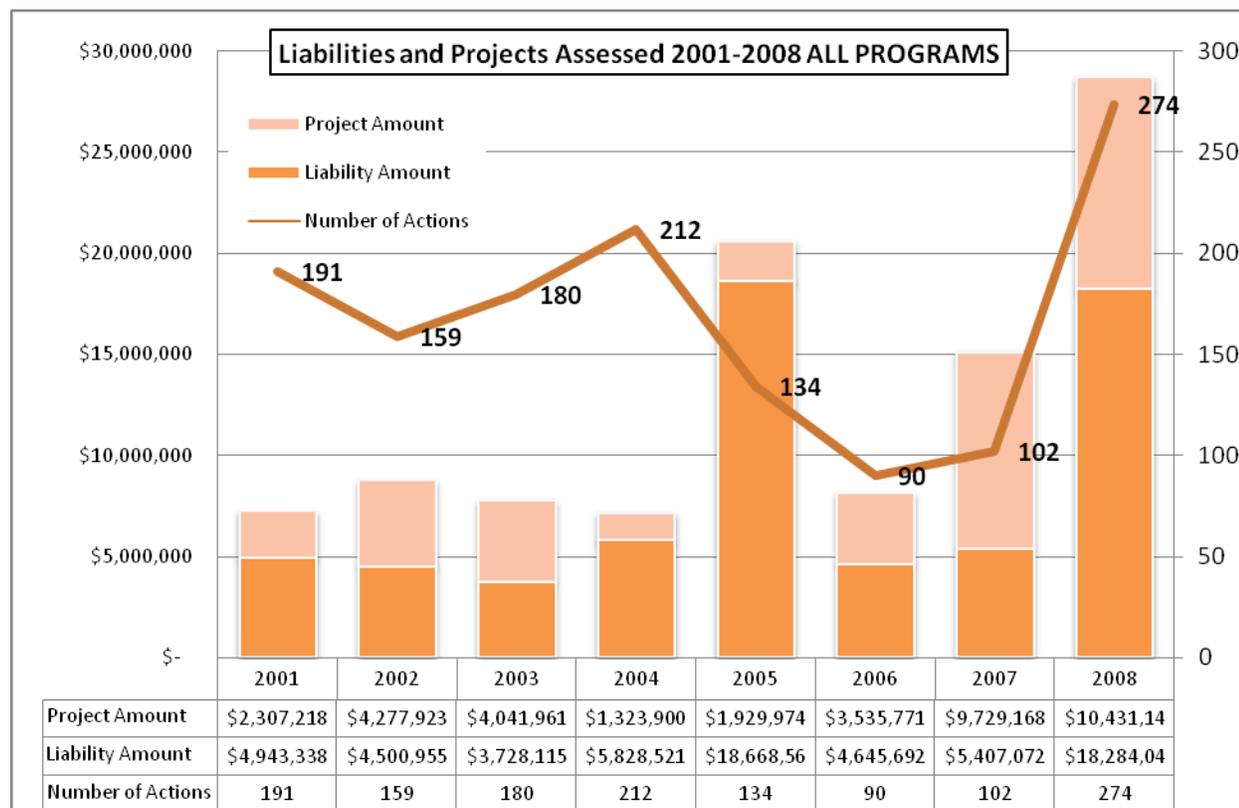
Enforc. LEVEL	Enforcement Action Type	Enforcement Actions for Calendar Year 2008					Total
		PROGRAM					
		NPDES	STORM WATER	WDR	LAND DISPOSAL	401 WETLANDS	
1	Oral Communication	50	207	105	8	4	374
1	Staff Enforcement Action	133	237	116	11	5	502
1	Notice of Violation	202	337	235	54	17	845
1	Notice to Comply	1	52	-	2	1	56
1	Notice of Stormwater Non-compliance	-	1,252	-	-	-	1,252
1	13267 Letter	7	19	74	7	5	112
1	Expedited Payment Letter	223	-	-	-	-	223
2	Time Schedule Order	13	1	-	-	-	14
2	Clean-up and Abatement Order	1	3	7	4	3	18
2	Cease and Desist Order	19	-	3	-	-	22
2	Waste Discharge Requirements	1	-	-	1	-	2
3	Administrative Civil Liability	205	30	18	3	3	259
3	Referral to Other Agency	1	2	-	-	-	3
3	Formal Referral to Attorney General	-	1	-	-	-	1
3	Settlement Court Order	-	1	-	1	-	2
<b>TOTAL</b>		<b>856</b>	<b>2,142</b>	<b>558</b>	<b>91</b>	<b>38</b>	<b>3,685</b>

Some enforcement actions are specific to certain programs such as the Notice of Stormwater Noncompliance issued under section 13399.31 of the California Water Code or Expedited payment Letters for NPDES violations subject to mandatory minimum penalties..

The number and amount of penalties assessed and satisfied under each one of the five core regulatory programs is displayed in the following table.

Program 2008 Metrics	NPDES Wastewater	NPDES Stormwater	WDR	Land Disposal	401 Wetlands
Number of Administrative Civil Liability Actions Issued	205	30	18	3	3
Penalties Assessed	<b>\$23,158,206</b>	<b>\$2,757,960</b>	<b>\$2,539,690</b>	<b>\$126,950</b>	<b>\$132,375</b>
<i>Received (paid) Liabilities</i>	<i>\$4,624,767</i>	<i>\$1,569,050</i>	<i>\$1,372,940</i>	<i>\$126,950</i>	<i>\$20,000</i>
<i>SEPs and Compliance Projects Completed</i>	<i>\$2,931,900</i>	<i>\$</i>	<i>\$</i>	<i>\$</i>	<i>\$</i>

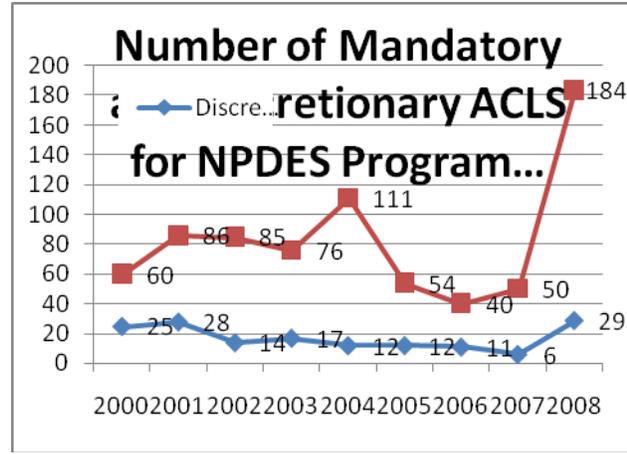
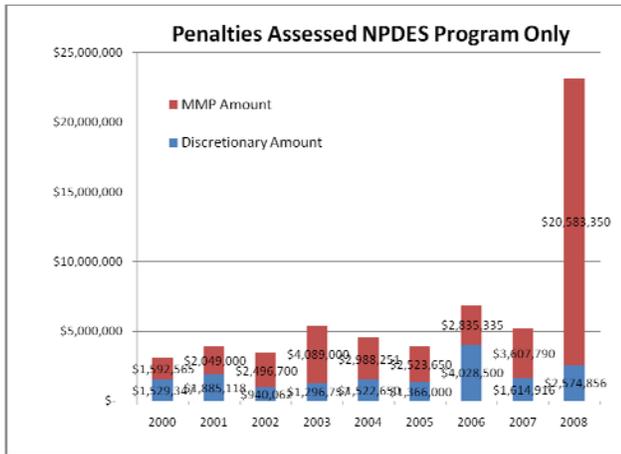
The following graph displays the amount of penalties assessed and proposed to be satisfied with a payment into one of the Water Boards' funds or by completing a Supplemental Environmental Project or a Compliance Project from the calendar year 2000 to 2008. The number of administrative actions issued and the amount of penalties assessed during 2008 is the largest of the previous ten years as a result of the efforts conducted through the 2008 Statewide Initiative for MMP enforcement<sup>4</sup>.



Of the 274<sup>5</sup> Administrative Civil Liability actions issued during calendar year 2008, 184 were assessed at the mandatory minimum amount under the NPDES program. The following graphs show that, for the NPDES program, 86% of the liability actions and 90% of the amount of the penalties were assessed at the mandatory minimum as a result of the 2008 Statewide Initiative for MMP enforcement.

<sup>4</sup> See [2008 annual 13385](#) report, page 24, for a description of the initiative.

<sup>5</sup> Includes 15 ACL actions taken for non-core regulatory programs.



Program Outcomes

**Compliance Rates and Enforcement Response**

At this point, we are not able to assess environmental results although measures and metrics have been developed and the Water Boards are working on a methodology to track and monitor the data necessary to evaluate the effectiveness of the enforcement programs and the environmental results achieved. The success of the enforcement program is being measured using two metrics: the enforcement response to violations and the overall compliance rate.

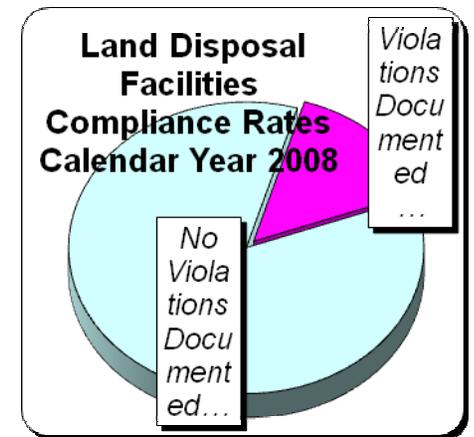
Program 2008 Metrics	NPDES Wastewater	NPDES Stormwater	WDR	Land Disposal	401 Wetlands
<b>ENFORCEMENT RESPONSE:</b>					
<b>% of Violations with Enforcement</b>	<b>63%</b>	<b>93%</b>	<b>36%</b>	<b>78%</b>	<b>70%</b>
<i>% of Violations with Level 1 Enforcement (only)</i>	<i>24%</i>	<i>92%</i>	<i>33%</i>	<i>78%</i>	<i>68%</i>
<i>% of Violations with Level 2 Enforcement (or 2 and 1)</i>	<i>17%</i>	<i>0%</i>	<i>2%</i>	<i>0%</i>	<i>0%</i>
<i>% of Violations with Level 3 Enforcement (or 3 and lower)</i>	<i>22%</i>	<i>1%</i>	<i>1%</i>	<i>0%</i>	<i>2%</i>
<b>OVERALL COMPLIANCE RATE (facilities without violations/regulated universe)</b>	<b>70%</b>	<b>95%</b>	<b>79%</b>	<b>85%</b>	<b>99%</b>

\* Does not include Timber Harvest, Dairies, Collection Systems, Water Use Recycling and Other WDR facilities.

**WATER BOARDS CORE REGULATORY PROGRAMS COMPLIANCE RATES**

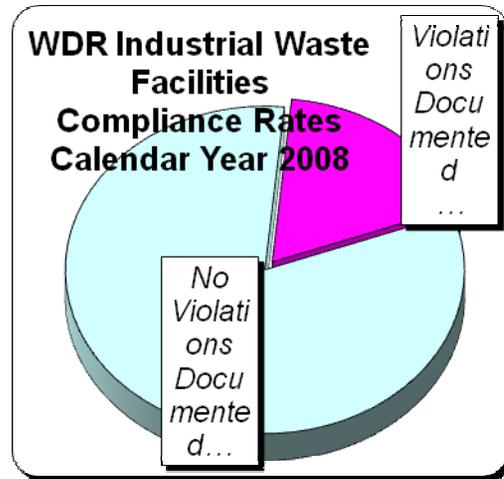
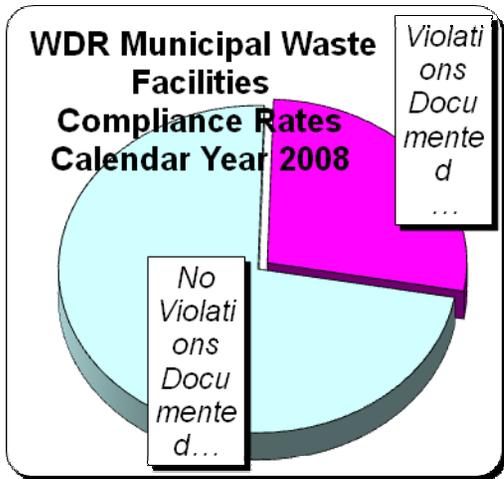
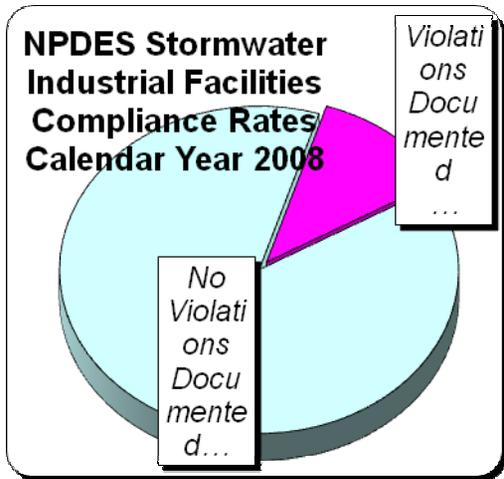
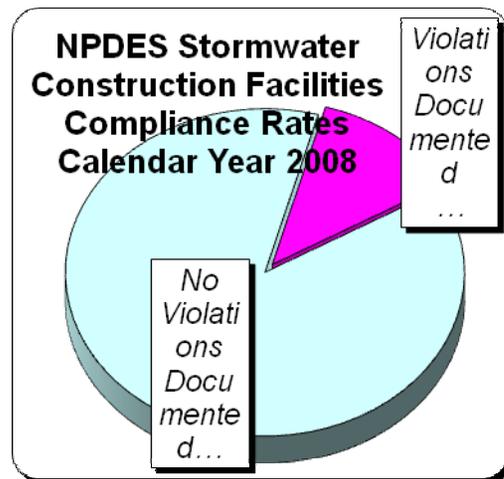
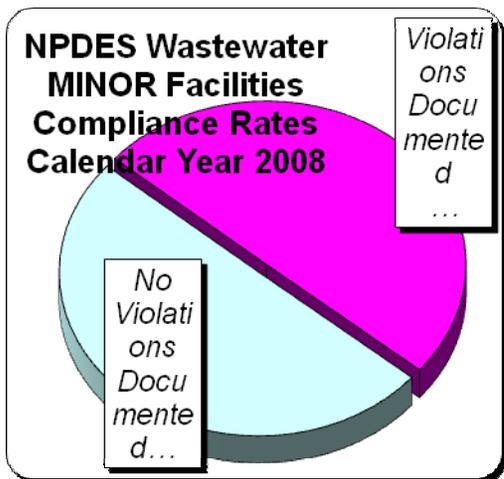
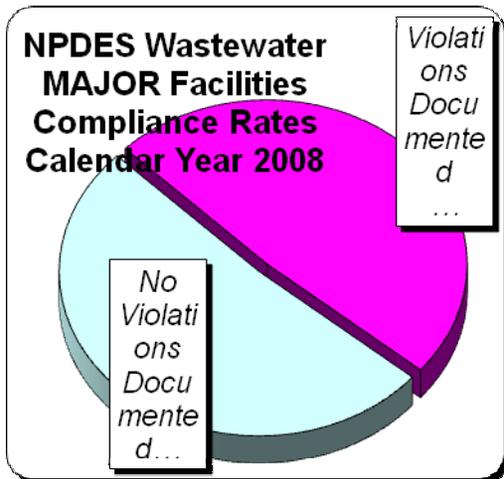
During calendar year 2008, Water Board enforcement staff participated with Cal/EPA in developing consistent compliance rates for the different programs. The following table displays the compliance rates for the core regulatory programs following the approach adopted. The NPDES storm water program has been divided into its two elements, construction and industrial to display in the charts. For purposes of the report, we define “compliance rate” as the number of facilities out of compliance divided by the total number of facilities for which compliance has been assessed (inspected, monitoring reports reviewed, etc). A facility is considered out of compliance if it has any violations during the reporting period.

Because we want to measure the magnitude, frequency and duration of noncompliance, we are measuring not just the number of facilities with at least one violation in the reporting period but also the number of facilities with priority violations and the number of facilities with repeated violations. Finally we also want to know the average number of violations per facility in violation.



SELECTED WATER BOARD PROGRAMS COMPLIANCE RATES CALENDAR YEAR 2008								
CORE REGULATORY PROGRAM AND FACILITY TYPE	Number of facilities with compliance Assessed	Facilities with one or more violations documented in the period	Percentage of facilities in violation (NON-COMPLIANCE RATE)	Total # 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
NPDES WASTEWATER <i>MAJOR</i>	267	130	49%	1,447	97	17	16	11.1
NPDES WASTEWATER <i>MINOR (Indiv.)</i>	379	189	50%	2,467	153	19	17	13.1
NPDES STORMWATER <i>CONSTRUCTION</i>	1,836	227	12%	434	224	3	0	1.9
NPDES STORMWATER <i>INDUSTRIAL</i>	9,868	1,165	12%	1,393	1,162	2	1	1.2
WASTE DISCHARGE REQUIREMENTS <i>MUNICIPAL WASTE</i>	1,694	462	27%	3,040	378	66	18	6.6
WASTE DISCHARGE REQUIREMENTS <i>INDUSTRIAL WASTE</i>	967	173	18%	882	147	22	4	5.1
LAND DISPOSAL	790	117	15%	277	116	1	0	2.4
TOTAL / AVERAGE	<b>15,801</b>	2,463	<b>16%</b>	9,940	2,277	130	56	4.0

WATER BOARDS CORE REGULATORY PROGRAMS COMPLIANCE RATES



In future reports, we plan to measure the compliance rates over time by facility type and size (wastewater treatment plants, major-minor, food processing plants etc.). We also plan to measure compliance rates for those receiving enforcement compared to those without any enforcement.

Other outcome measures proposed to be included in future reports are:

- Deterrence
- Recidivism
- Economic and Environmental Benefits

#### Environmental/Health Outcomes

The Water Boards are not currently tracking information on outcomes achieved from enforcement actions. The Environmental Protection Indicators for California include several indicators that will be related to enforcement actions in future reports, these include the coastal beach availability indicator and the spill/release episodes indicator among others.

### **3) Program Limitations**

**Resources:** The Enforcement program requires many different skills and resources. Enforcement conducted as an element of the regulatory programs does not have a clearly identified budget and resources may be directed to other areas and activities based upon need. Training efforts must be directed to improve our ability to check compliance and take enforcement actions.

**Data and Information:** Our ability to process and manage data and information limit our ability to evaluate program performance and prioritize the allocation of enforcement resources to the highest threats of water quality.

**Measuring Outcomes:** Our tracking systems do not currently report on environmental outcomes. Although we are improving our ability to measure behavioral outcomes, such as compliance rates, the enforcement program is not currently measuring environmental outcomes achieved by the enforcement strategies.

### **C) Water Quality: Other Enforcement Program Components**

#### **Office of Enforcement, State Water Board**

The Office 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 Office is to ensure that violations of State and Regional Water Board orders and permits result in firm, fair, and consistent enforcement both through direct actions, the development of policies and guidance, and identification of metrics for decision-making on enforcement related issues.

The Office reports directly to the State Water Board's Executive Director. The Office is comprised of 10 legal and 13 investigative staff. The investigative staff is divided into two units, the Special Investigations Unit (SIU) (7.5 PY) and the Underground Storage Tanks (UST) Enforcement Unit (5PY). Consolidation of Water Boards' enforcement attorneys into the Office began in Fiscal Year 2006/2007 and is continuing into Fiscal Year 2007/2008.

## **Special Investigations Unit (SIU) in the Office of Enforcement, State Water Resources Control Board**

This unit undertakes the following activities:

**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. During 2008, SIU investigated approximately 40 WWTP operator certification cases. Of those, 13 were new cases. SIU resolved about 16 WWTP operator certification cases during 2008.

SIU's investigations resulted in 4 disciplinary actions during this time, 1 ACL (\$10,000), 1 civil penalty (\$12,500) and 1 criminal conviction.

**Regional Water Board Assistance:** The State Water Board's SIU is often asked by the Regional Water Boards to provide technical and investigative assistance on some of their cases. In calendar year 2008, SIU assisted the Regional Water Boards with 12 cases. Of those, 3 cases were resolved during the fiscal year. As a result of these investigations, the Regional Water Boards have issued Administrative Civil Liabilities (ACLs) and Cease and Desist Orders (CDOs). SIU continues to assist the Regional Water Boards on pending cases, and in some instances is coordinating with other local, state and federal agencies to bring these cases to closure.

Usually, citizen complaints not related to WWTP operator certification are referred to the appropriate Regional Water Board for investigation and follow-up. Occasionally, however, the State Water Board leads the investigation. SIU investigated two such complaints during 2008.

### **Staff Training:**

**Statewide Water Conference** - In January 2008 the SIU, in conjunction with the Water Board Training Academy, organized a conference entitled "Enforcenomics: Why Enforcement Makes Economic Sense." This event was attended by 82 attendees, most of them Water Board Staff.

**Cal/EPA Enforcement Symposium** – SIU staff and UST Enforcement staff assisted with the Development and delivery of the Cal/EPA Enforcement Symposium in May 2008.

**Advanced Waste Water Treatment Plant Course** - SIU Staff assisted with the development of Academy courses on advanced waste water treatment plant operation for Water Board staff.

**Stormwater Enforcement Training** - SIU Staff assisted with the development and delivery of Academy courses on waste water treatment plant for Water Board staff.

**Collection Systems Training** - SIU Staff assisted with the development and delivery of Academy courses on waste water treatment plant for Water Board staff.

### **Other Projects:**

**DFG/ Water Board Pilot Project** – SIU and Stormwater Program Staff began a series of meetings intended to increase coordination on enforcement between DFG and Regional Water Board staff.

**MMP Initiative** – SIU initiated a plan with the Regional Water Boards to eliminate the MMP enforcement backlog by December 31, 2008

**Enforcement Policy** – SIU began revision and reissuance of the Water Quality Enforcement Policy.

**Roundtables** – SIU staff conducted eight Enforcement Roundtable Meetings with enforcement staff statewide. Additionally, SIU staff participated in other Water Board program roundtable meetings.

**Complaints** – SIU staff worked with Regional Water Board staff to ensure response to incoming complaints, and worked with Cal/EPA on development of the Cal/EPA Complaint Tracking System.

### **Underground Storage Tank (UST) Enforcement Unit, Office of Enforcement, State Water Resources Control Board**

During calendar year 2008, the UST Enforcement Unit had a number of ongoing investigations regarding statewide UST construction issues, cleanup and Cleanup Fund fraud cases.

- **UST Leak Prevention:** 146 oil company/retail gas stations had been under investigation during 2008 for potentially more than 330 violations. Also 35 Major oil company/retail gas stations were investigated for more than 1065 potential violations. The unit is also assisting the Attorney General Office with the investigations of 500 sites. Furthermore, 40 City owned UST had been investigated during 2008 detecting more than 225 violations and referring the cases to other agencies for enforcement.
- **UST Cleanup Fund:** 43 cleanup fund claims and 25 claimants were investigated during 2008.
- **UST Remediation:** The unit assisted the Los Angeles Regional Water Quality Control Board with the violation of a Cleanup & Abatement Order at one retail gas station, which resulted in a civil liability of \$35,000. Of that amount, \$15,000 was paid and the remaining \$20,000 was suspended conditioned on maintaining compliance with the Cleanup & Abatement Order until the site is closed.
- **Licensing:** Seven companies were under investigation during 2008 for potential licensing violations including tank tester licensing. Four enforcement alerts were sent to regulators notifying them of potential licensing violations. One company was referred to the Attorney General's Office.

### **Prosecution Support, Office of Enforcement, State Water Resources Control Board**

The Office's attorneys work with regional prosecution staff to bring administrative enforcement cases before the State Water Board and the Regional Water Boards including significant water quality enforcement cases and cases from programs that are implemented by the Regional Water Boards. The prosecution team at the Office of Enforcement has ten attorneys.

### **D) Water Rights 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 from impacts that occur as a result of water diversions and include conditions to protect other water users and the environment. According to the State Water Board's water rights database system, there are 34,952 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:

<b>Applications*:</b>	<b>466</b>
<b>Permits*:</b>	<b>1,535</b>
<b>Licenses*:</b>	<b>10,910</b>
<b>Small Domestic and Livestock Stockpond Registrations*:</b>	<b>728</b>
<b>Stockpond Certificates*:</b>	<b>5,305</b>
Groundwater Extraction Claims:	3,797
Statements of Water Diversion and Use:	10,169
Federal Fillings:	1,974
Other Water Rights:	68
<b>Total Water rights:</b>	<b>34,952</b>

\* 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 [Water Rights Enforcement 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 1,535 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.

### 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 instream 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 2008.

Water Right Enforcement Actions for Calendar Year 2008				
Enforcement Action Type	Water Rights Enforcement Program			Total
	LICENSING	COMPLIANCE	COMPLAINTS	
Oral Communication	14	0	3	17
Staff Enforcement Action	18	28	9	55
Notice of Violation	-	-	-	-
Permit and License Revocation Orders Issued	23	19	7	49
Cease and Desist Order	0	7	2	9
Administrative Civil Liability	0	5	2	7
Referral to Other Agency	-	-	-	-
Formal Referral to Attorney General	-	-	-	-
Settlement Court Order	-	-	-	-
<b>TOTAL</b>	<b>55</b>	<b>59</b>	<b>23</b>	<b>137</b>

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 2008.

<b>WATER RIGHTS Enforcement Program Area</b>	<b>LICENSING</b>	<b>COMPLIANCE</b>	<b>COMPLAINTS</b>	<b>TOTAL Water Rights</b>
<b>REGULATED UNIVERSE</b>	1,707	11,610	10,305	23,622
Enforcement Section (PY) 08/09	6.0	6.0	4.8	16.8
<b>ENFORCEMENT BUDGET 08/09</b>	\$1,010,708	\$937,323	\$731,738	\$2,679,769
Enforcement Dedicated Resources (PY)	0.5	5.5	0.5	6.5
Permits/PY	285	1,935	2,147	1,406
Permits/Enforcement PY	3,414	2,111	20,610	3,634
Monitoring Reports Reviewed	1,219	2,724	171	4,114
Field Inspections Conducted	29	15	21	65
Violations* (not including reporting violations)	361	3,097	2,782	6,240
Violations for reports not submitted	552	1,313	1,065	2,930
Priority or Chronic noncompliance problems	91	310	278	679
Violations found by inspection	32	15	12	59
Priority violations detected	3	1	2	6
Enforcement Actions Taken	55	59	23	137
Formal Actions (Revocations, ACLs & CDOs)	23	31	11	65
Informal Actions	32	28	12	72
Cases Closed	71	89	35	195
Cease and Desist Orders	0	3	2	5
Administrative Civil Liability	0	2	2	4
Penalties Assessed	\$-	\$46,850	\$-	\$46,850
Enforcement Response % of violations with enforcement	6%	1%	1%	1%
Water Rights Compliance Rate	47%	62%	63%	61%

\* The number of non-reporting violations is estimated.

### E) Compliance Assistance Activities

The Water Boards conduct diverse compliance assistance activities ranging from direct technical training and workshops to providing financial assistance through the loans and grants program. The [Division of Financial Assistance](#) at the State Water Board provides grants and loans for compliance assistance projects statewide.

On July 1<sup>st</sup> 2008, the State Water Board adopted resolution [2008-0048](#), directing staff to *“Identify new and supplemental funding sources, particularly to provide technical and compliance assistance support for small and/or disadvantaged communities. Review the State Water Board’s Cleanup and Abatement Account (CAA) as part of the current Enforcement Policy Update and recommend any appropriate CAA changes to support small and/or disadvantaged communities.”*

### III. WHAT ARE WE GOING TO DO: FUTURE DIRECTIONS

#### A) Key Strategic Plan Enforcement Objectives

The Water Boards adopted the [Strategic Plan](#) for 2008-2012<sup>6</sup> on September 2, 2008. The strategic plan update integrates enforcement strategies across the key environmental priorities identified in the plan. These priorities address the Water Boards core responsibilities to protect surface and groundwater and promote a sustainable water supply. The objectives and actions, including performance targets, that are enforcement related are excerpted below:

**Objective 1.3.** Take appropriate enforcement actions and innovative approaches as needed to protect and restore all surface waters.

**Action 1.3.1.** The Water Boards will reduce the backlog of facilities that are subject to mandatory minimum penalties by 50 percent by December 2009.

**Action 1.3.2.** The Water Boards will work collaboratively to pilot enforcement programs and other innovative approaches to protect and restore surface water quality, initially focusing on facilitating compliance with the regulatory programs for irrigated agriculture.

**Action 1.3.3.** The Water Boards will pilot enforcement programs and other innovative approaches to protect and restore coastal and ocean water quality by implementing AB 258 "nurdles" pollution prevention law and strengthening enforcement response to spills and illegal discharges.

**Action 1.3.4.** The State Water Board will adopt by December 2008 an updated Water Quality Enforcement Policy that includes factors for ranking enforcement priorities, metrics to measure enforcement effectiveness, and processes whereby the State Water Board will exercise its water quality enforcement authority.

**Objective 2.2.** Identify strategies to ensure that communities that rely on groundwater contaminated by anthropogenic sources will have a reliable drinking water supply, which may include surface water replacement, in the future.

**Action 2.2.3.** Upon identification of discharges contributing to the contamination of groundwater relied on by these communities; take appropriate regulatory or enforcement action.

**Objective 5.4.** Create a portal by July 2009 for the public on the State Water Board’s home page to access web-based water quality information for surface, ground, and coastal waters, and a web-based water quality report card, that will communicate to the public the quality of the State’s waters, the performance of the Water Boards in protecting those waters, and other Water Board-related issues that affect the public.

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<sup>6</sup> The Water Boards Strategic Plan is available at <http://www.swrcb.ca.gov/>

**Action 5.4.1.** Considering stakeholder input, develop annual web-based reports on the effectiveness of Water Board programs, beginning with a report on compliance and enforcement activities by January 2009, which track performance measures that are established in performance plans, and allows the Water Boards to adjust priorities and strategies for the coming year.

**Objective 6.1.** Target consistency improvements in process and policy for Water Board enforcement activities to promote compliance.

**Action 6.1.1.** Adopt and implement, by October 2008, revisions to the Water Quality Enforcement Policy to, at a minimum, ensure consistent enforcement response, assessment of penalties for all Class 1 violations, and assessment of liability in excess of the economic gain obtained as a result of non-compliance. The policy will also establish a clear, consistent statewide approach to the prioritization of enforcement targets, based on threats and adverse impacts to beneficial uses, including the identification of Class I violations.

**Action 6.1.2.** Develop uniform hearing procedures for contested enforcement matters, and templates for enforcement activities, including but not limited to subpoenas, administrative discovery, and investigation reports, by October 2008.

**Action 6.1.3.** Complete re-organization/re-direction of staff to separate enforcement personnel from permitting personnel by December 2009, and instill internal process for review of draft WDRs and draft WDR waivers for enforceability beginning in September 2008.

**Objective 7.1.** Enhance professional development opportunities for Water Board employees to increase their knowledge, skills, and expertise.

**Action 7.1.1.** Through the Water Boards' Training Academy, assess training needs by December 2008, and develop and deliver courses and core curricula to meet those needs, beginning with enforcement and stormwater regulation by March 2009.

**Objective 7.4.** Leverage resources and expertise through innovative approaches and teams across Water Board programs and regions and through partnerships with governmental and non-governmental organizations, to enhance existing workforce capacity and field presence, and provide information to help target Water Board efforts.

**Action 7.4.1.** Develop partnerships with other agencies that have environmental, regulatory enforcement authority to address threats to water quality, beginning with a pilot enforcement program, in collaboration with the Department of Fish and Game, focused on stormwater concerns in the Los Angeles region by December 2008.

**Action 7.4.4.** Identify and use existing or new staff teams to integrate Water Board programs, resolve cross-program issues, and reduce program inconsistencies such as a water quality data team, enforcement coordination team and a water rights/water quality integrated decision-making team by December 2011.

**B) Recommendations for Future Actions**

These actions are more fully described in the recently completed [Fiscal Year 2007-2008 Annual Enforcement Report](#) and are in addition to ongoing enforcement improvement efforts such as the proposed revisions to the Water Quality Enforcement Policy and implementation of the CIWQS review Panel recommendations.

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## LINKS TO ENFORCEMENT REPORTS AND DATA AVAILABLE AT THE WATER BOARD PUBLIC WEB SITES

### State Water Board Enforcement

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/water_issues/programs/enforcement/)

### CIWQS Public Reports

[http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml)

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

#### Region 1:

[http://www.waterboards.ca.gov/northcoast/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/northcoast/water_issues/programs/enforcement/)

#### Region 2:

[http://www.waterboards.ca.gov/sanfranciscobay/pending\\_en.shtml](http://www.waterboards.ca.gov/sanfranciscobay/pending_en.shtml)

<http://www.waterboards.ca.gov/sanfranciscobay/enforcement.shtml>

#### Region 3:

[http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/enforcement/index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/index.shtml)

#### Region 4:

[http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/)

#### Region 5:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/enforcement/index.shtml](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](http://www.waterboards.ca.gov/lahontan/water_issues/programs/enforcement/index.shtml)

#### Region 7:

[http://www.waterboards.ca.gov/coloradoriver/water\\_issues/programs/enforcement/](http://www.waterboards.ca.gov/coloradoriver/water_issues/programs/enforcement/)

#### Region 8:

[http://www.waterboards.ca.gov/santaana/water\\_issues/programs/investigations\\_enforcement/index.shtml](http://www.waterboards.ca.gov/santaana/water_issues/programs/investigations_enforcement/index.shtml)

#### Region 9:

[http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/enforcement/index.shtml](http://www.waterboards.ca.gov/sandiego/water_issues/programs/enforcement/index.shtml)

### CWC section 13323(e) mandated Quarterly Enforcement Summaries

The list of Administrative Civil Liabilities 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>

**LIST OF ACRONYMS**

<b>Acronym</b>	<b>Full Name</b>
<b>ACL</b>	Administrative Civil Liability
<b>CAA</b>	State Water Pollution Cleanup and Abatement Account
<b>Cal EPA</b>	California Environmental Protection Agency
<b>CAFO</b>	Concentrated Animal Feeding Operations
<b>CAO</b>	Cleanup and Abatement Order
<b>CDO</b>	Cease and Desist Order
<b>CIWMB</b>	California Integrated Waste Management Board
<b>CIWQS</b>	California Integrated Water Quality System
<b>CSD</b>	Community Services District
<b>CTR</b>	California Toxics Rule
<b>CWA</b>	Clean Water Act
<b>DA</b>	District Attorney
<b>EO</b>	Executive Officer
<b>ICC</b>	International Code Council
<b>LID</b>	Low Impact Development
<b>MNP</b>	Mandatory Minimum Penalties
<b>MS4</b>	Municipal Separate Storm Sewer System
<b>NPDES</b>	National Pollutant Discharge Elimination System
<b>NPS</b>	Non-Point Source
<b>NOV</b>	Notice of Violation
<b>O&amp;M</b>	Operations & Maintenance
<b>OE or Office</b>	Office of Enforcement
<b>PCS</b>	Permit Compliance System
<b>PY</b>	Personnel Year
<b>POTW</b>	Publicly Owned Treatment Works
<b>PUD</b>	Public Utilities District
<b>QA/QC</b>	Quality Assurance/Quality Control
<b>RCRA</b>	Federal Resource, Conservation, and Recovery Act
<b>SEP</b>	Supplemental Environmental Project
<b>SIC</b>	Standard Industrial Classification
<b>SIU</b>	Special Investigations Unit
<b>SMCRA</b>	Surface Mining Control and Reclamation Act
<b>SMR</b>	Self-Monitoring Report
<b>SSMP</b>	Sewer System Management Plan
<b>SSO</b>	Sanitary Sewer Overflow
<b>TSO</b>	Time Schedule Order
<b>UST</b>	Underground Storage Tanks
<b>Water Boards</b>	State and Regional Water Boards
<b>WDR</b>	Waste Discharge Requirements
<b>WQBEL</b>	Water Quality-Based Limitation
<b>WWTP</b>	Wastewater Treatment Plant

**ATTACHMENT A: Five Core Regulatory Programs 2008 Metrics**

<b>PROGRAM 2008 METRICS</b> <i>(Five Core Reg. Programs)</i>	<b>NPDES WASTE- WATER</b>	<b>NPDES STORM- WATER</b>	<b>WDR</b>	<b>LAND DISPOSAL</b>	<b>401 WETLANDS</b>
<b>REGULATED UNIVERSE</b>	<b>2,037</b>	<b>28,805</b>	<b>6,731</b>	<b>790</b>	<b>959</b>
<b>Number of Staff in Program (PY) 08/09</b>	98.7	96.6	80.4	70.8	18.8
<b>Total Program BUDGETED 08/09</b>	\$22,527,653	\$19,233,983	\$14,489,391	\$12,144,721	\$2,908,864
<b>Enforcement Resources (PY)</b>	40	48	29	39	2
<b>Permits/PY</b>	21	299	84	11	51
<b>Permits/Enforcement PY</b>	51	601	232	20	480
<b>Monitoring Reports*</b>	>12,000	>10,000	>19,000	>2,000	-
<b>Inspections</b>	639	2,472	780	539	60
<b>Percentage of Facilities Inspected</b>	31%	9%	29%*	68%	6%
<b>Facilities With Violations</b>	<b>601</b>	<b>1,389</b>	<b>825</b>	<b>115</b>	<b>12</b>
<i>Facilities With Priority or Chronic Noncompliance Problems</i>	368	240	413	3	7
<b>Total Number of Violations</b>	<b>5,417</b>	<b>1,873</b>	<b>5,179</b>	<b>277</b>	<b>61</b>
<i>Priority Violations</i>	2,481	304	1,073	2	23
<b>Total Enforcement Actions</b>	<b>855</b>	<b>2,139</b>	<b>551</b>	<b>87</b>	<b>35</b>
<i>Level 1 Enforcement (Notice of Violation, Verbal Notification, Request for Information, etc.)</i>	617	2,107	530	82	32
<i>Level 2 Enforcement (Actions Requiring Compliance, CDO, CAO, TSO, etc.)</i>	33	1	3	1	-
<i>Level 3 Enforcement (Actions Imposing Liabilities)</i>	205	31	18	4	3
<b>Number of Administrative Civil Liability Actions Issued</b>	205	30	18	3	3
<b>Penalties Assessed</b>	<b>\$23,158,206</b>	<b>\$2,757,960</b>	<b>\$2,539,690</b>	<b>\$126,950</b>	<b>\$132,375</b>
<i>Received Liabilities (Paid)</i>	\$4,624,767	\$1,569,050	\$1,372,940	\$126,950	\$20,000
<i>Projects Completed</i>	\$2,931,900	\$-	\$-	\$-	\$-
<b>ENFORCEMENT RESPONSE:</b> <i>(% of Violations with Enforcement)</i>	<b>63%</b>	<b>93%</b>	<b>36%</b>	<b>78%</b>	<b>70%</b>
<i>% of Violations with <b>Level 1</b> Enforcement (only)</i>	24%	92%	33%	78%	68%
<i>% of Violations with <b>Level 2</b> Enforcement (or 2 and 1)</i>	17%	0%	2%	0%	0%
<i>% of Violations with <b>Level 3</b> Enforcement (or 3 and lower)</i>	22%	1%	1%	0%	2%
<b>OVERALL COMPLIANCE RATE:</b> <i>(facilities without violations/regulated universe)</i>	<b>70%</b>	<b>95%</b>	<b>79%</b>	<b>85%</b>	<b>99%</b>

\* The percentage of WDR facilities inspected does not include Timber Harvest, Dairies, Water Recycling and Other facilities.



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  
**Brian Thompson (510) 622-2422**  
BRThompson@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/coloradoriver  
73-720 Fred Waring Dr., Suite 100  
Palm Desert, CA 92260  
**Doug Wylie (760) 346-6585**  
dwylie@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

★ **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*



