

California Water Boards

**ANNUAL
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ANNUAL ENFORCEMENT REPORT

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STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

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

Acronyms

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

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

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Executive Summary

This annual enforcement report follows the [Baseline Enforcement Report](#) dated April 30, 2008. This report describes the enforcement functions that support the Water Boards' five core regulatory programs and uses many of the performance measures described in the Baseline Enforcement Report.

The report, covering Fiscal Year 2007-2008 (July 1, 2007 – June 30, 2008), highlights the resources available for core regulatory program enforcement and the enforcement actions achieved with those resources. It illustrates some of the challenges faced by the Water Boards in bringing enforcement actions and makes recommendations for improvements to the Water Boards' enforcement tools and authorities.

Here are some highlights for FY 2007-2008,

- Regional Board enforcement staff: 64
- Regional Board compliance staff: 94
- State Board enforcement staff: 18
- Number of regulated facilities: 39,692
- Inspections conducted: 3,763
- Violations documented: 15,177
- Facilities with one or more violations: 2,970
- Informal enforcement actions taken: 2,706
- Formal enforcement actions taken: 283
- Administrative Civil Liability actions: 106
- Penalties assessed: \$19 million
- Violations receiving enforcement: 8,643

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

The majority of the information in the tables and figures is generated from the Water Boards' California Integrated Water Quality System (CIWQS), which is a database containing information on the Water Boards' water quality programs. As with the Baseline Enforcement Report, some key data elements are either missing or incomplete for many of the core regulatory programs. Variation in data entry is apparent from region-to-region and a lack of data should not be interpreted as inactivity by some Regional Water Boards. During the reporting period, several important milestones were reached regarding improvements to CIWQS that will assist in enforcement reporting in the future.

In particular, a limited number of program “modules” are being constructed which will tailor the information being collected to the “vocabulary” of the program resulting in a more logical approach to data entry and retrieval. The Office of Information Management and Analysis (OIMA), responsible for maintaining and updating the CIWQS database, has conducted several efforts to improve the quality and quantity of data. These efforts include the development of reports and the facilitation of data entry using customized “wizards”. Other efforts include data completeness and data quality analysis.

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

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

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

[For the measures not currently supported, information on self-monitoring reports will be reportable once the electronic self-monitoring report system is](#)

operational. Implementation of measures related to recidivism and environmental benefits is currently being evaluated, but will likely require modifications to both existing business processes and CIWQS.

The measures included in this report, along with measures of performance for our regulatory, financial assistance and basin planning programs, will be featured in the first annual Water Boards' Performance Report Card, scheduled for release in summer 2009.

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Introduction

Introduction and Purpose of This Report

This Annual Enforcement Report provides a comprehensive summary of enforcement activities and performance measures for the Water Board's¹ core regulatory programs.¹ This report continues the Water Boards' reporting efforts and builds on the information provided in the Baseline Enforcement Report released on April 30, 2008.

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

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

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

The enforcement component of the core regulatory programs concentrates on:

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

Enforcement strategies available to the Water Boards range from ~~the most~~ informal to the formal. An informal enforcement action can be as simple as a

¹ The Annual Enforcement Report for Fiscal Year 2007-2008 covers some of the subject matter also addressed by the calendar years 2007 and 2008 Enforcement Reports prepared by the State Water Board pursuant to *Water Code* section 13385(o). This Annual Enforcement Report addresses a different reporting period and a greater number of core regulatory programs than the 13385 report.

phone call or email while formal actions may include Investigatory Orders, Cleanup and Abatement Orders, Cease and Desist Orders, and orders imposing Administrative Civil Liability among others. For the more formal actions, a hearing before a Regional Water Board will generally be necessary. The Water Quality Enforcement Policy dated February 19, 2002 establishes the framework for taking enforcement actions that are appropriate in relation to the nature and severity of the violations. Consistent use of formal enforcement actions to address the most serious violations is a fundamental goal of the Water Boards. In addition to the Water Boards' enforcement strategies under federal and state law, citizens may also file suit against a discharger for alleged violations under the federal Clean Water Act, after notice has been given to the Regional Water Board of the intent to sue. A description of the Clean Water Act Citizen suit provisions is provided in Appendix 3.

This report has five purposes:

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

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

- **National Pollutant Discharge Elimination System (NPDES) Wastewater Program**
Regulates the discharge of wastewater from point sources to surface waters (rivers, lakes, oceans, wetlands, etc), sewage spills and discharges of treated groundwater to surface water.
- **NPDES Stormwater Program**
Regulates pollution discharged from stormwater runoff surface waters. Pollution from construction and industrial sites is regulated under the stormwater construction and industrial program. Pollution from urban surface street stormwater runoff is regulated under the municipal stormwater program. Pollution from highways and roads is regulated

under the statewide stormwater general permit for the California Department of Transportation (CALTRANS).

- **Wetlands and 401 Certification Program**
Regulates the dredging and disposal of sediments, filling of wetlands or waters, and any other modification of a water body.
- **Waste Discharge Requirements Program**
Regulates the discharge of wastewater from point sources to land and groundwater, waste generated from confined animal facilities (e.g., dairies, feedlots, stables, poultry farms) and all other pollution sources that can affect water quality not covered by other programs.
- **Land Disposal**
Regulates discharges of waste to land that need containment in order to protect water quality, including landfills, waste ponds, waste piles, and land treatment units

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

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

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

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

The key enforcement reporting requirements that this report addresses include:

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

Requirements not addressed in this report but covered elsewhere include:

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

table and update it quarterly. [See Appendix 6 for a links to this information for each Regional Water Board.](#)

- *California Water Code Section 13323, subdivision (e)* requires information related to hearing waivers and the imposition of [administrative civil liability](#), as proposed, to be imposed and as finally imposed, to be posted on the Internet. [See Appendix 6 for a links to this information for each Regional Water Board.](#)
- *California Water Code Section 13385, subdivision (o)* – requires the State Water Board to continuously [report](#) and update information on its website², but at a minimum, annually on or before January 1, about its enforcement activities.

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

² <http://www.waterboards.ca.gov/>

Section 2

State Water Board Office of Enforcement

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

Structure of the Office

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

Functions of the Office of Enforcement

Direct Enforcement Actions

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

Referrals

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

Enforcement Coordination

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

During FY 2007-2008 OE conducted eight Enforcement Roundtable Meetings with enforcement staff statewide. Additionally, SIU staff participated in other Water Board program roundtable meetings.

Policy Development

The Water Boards' Water Quality Enforcement Policy articulates enforcement expectations and priorities for the State and Regional Water Boards. During the fiscal year, OE began revising and reissuing the Water Quality Enforcement Policy.

Regional Water Board Assistance

The State Water Board's SIU assist the Regional Water Boards -by providing technical and investigative assistance on some of their cases. In Fiscal Year 2007/2008, SIU assisted the Regional Water Boards with 15 cases. Of those, seven cases were resolved during the fiscal year. As a result of these investigations, the Regional Water Boards have issued ACLs and CDOs. SIU continues assisting the Regional Water Boards on pending cases, and in some instances, is coordinating with other local, state and federal agencies by bringing these cases to closure.

Usually, citizen complaints not related to WWTP operator certification are referred to a Regional Water Board for investigation and follow-up. Occasionally, the State Water Board leads the investigation. SIU investigated one such complaint during FY 2007-2008.

Training OE staff work with the Water Board Training Academy to provide training on topics affecting enforcement statewide. During FY 07-08, the following training events were held around the state.

Humboldt Workshop – In August 2007, the SIU partnered with Stormwater Program Staff and the California District Attorneys Association to conduct a workshop for the public in Humboldt County about water quality protection.

Statewide Water Conference - In January 2008 the SIU with the Water Board Training Academy and the Office of Research, Planning and Performance Economics Units, organized a conference entitled "Enforcenomics: Why Enforcement Makes Economic Sense." About 100 people from the Water Boards and other agencies attended this event.

Cal/EPA Enforcement Symposium – SIU staff and UST Enforcement staff assisted with developing and delivering the Cal/EPA Enforcement Symposium in May 2008.

Advanced Waste Water Treatment Plant Course - SIU Staff assisted with developing Training Academy courses on waste water treatment plants for Water Board staff.

Legal Support Activities

During Fiscal Year 2007-2008 the legal staff of the Office of Enforcement was in transition. The OE began the fiscal year with three staff attorneys and ended with six staff attorneys. The focus for these attorneys shifted during this year as the office reduced its efforts in water rights enforcement and, in coordination with the Office of Chief Counsel, began assuming responsibility for legal representation in all administrative civil liability actions for core regulatory water quality violations in Regions 3, 6, 7, 8, and 9. The Office was responsible for legal support in two major site remediation cases involving multiple, potentially responsible parties.

Water Rights (11 matters)	<ul style="list-style-type: none"> • 11 matters
Water Quality (86 matters)	<ul style="list-style-type: none"> • New referral to AGO or District Attorney's Office – 5 • Ongoing support of civil cases previously referred to AGO or DA – 1 • Ongoing support of criminal cases brought by DA – 1 • Support of new or ongoing investigations – 38 • Support for formal administrative civil liability enforcement actions – 34 • Support for formal enforcement actions other than administrative civil liability matters – 5 • Support for formal enforcement actions for significant, multi-party site remediation matters - 2
UST Enforcement (10 matters)	<ul style="list-style-type: none"> • New referral to AGO – 2 • Support of cases previously referred to AGO – 3 • Support of independent UST enforcement cases by AGO – 1 • Support of investigations by UST Enforcement Unit – 2 • Support of Tank Integrity Testing actions – 2
Operator Certification Enforcement (24 matters)	<ul style="list-style-type: none"> • Support of ongoing investigations – 17 • Support of formal enforcement action - 7

Special Investigations Unit (SIU)

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

Operator Certification Program: The State Water Board enforces the laws and regulations governing Waste Water Treatment Plant (WWTP) operators. The Office of Operator Certification, within the Division of Financial Assistance, administers the WWTP Operator Certification Program. The Special Investigations Unit (SIU) investigates potential cases of wrong doing and takes enforcement action when warranted. During the 2007-2008 fiscal year, SIU investigated approximately 44 WWTP operator certification cases. Of those, seven were new cases. SIU resolved 25 WWTP operator certification cases during the 2007-2008 fiscal year.

SIU's investigations resulted in two disciplinary actions during this time, three ACLs (totaling \$33,000), one civil penalty (\$12,500) and one criminal conviction.

Complaints – SIU staff worked with Regional Water Board staff to respond to incoming complaints, and assisted Cal/EPA with developing the Cal/EPA Complaint Tracking System.

Underground Storage Tank (UST) Enforcement Unit

During Fiscal Year 2007-2008 the UST Enforcement Unit had many ongoing investigations about UST leak prevention, Cleanup Fund fraud, Tank Tester licensing, and cleanup remediation.

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

- UST Leak Prevention – 13 matters (593 facilities)
 - Ongoing civil cases referred to AGO or DA – 6
- UST Cleanup Fund – 5 matters (65 Cleanup Fund claims)
 - Referrals to AGO – 2
- Cleanup Remediation – 6 matters (152 facilities)

- o Support of administrative civil liability matters – 1
- o Total Value of ACL - \$35,000

UST Tank Tester Licensing Program: The State Water Board can take administrative enforcement action against licensed tank testers. There are approximately 150 licensed tank testers in California. These individuals test UST systems to verify that the systems are not leaking and are in compliance. During FY 2007-2008 the UST unit addressed 8 matters (39 facilities) described in Table 1.

Training: In February 2008, the UST Enforcement Unit moderated a session titled “UST Enforcement” at the California Unified Program Conference in San Francisco.

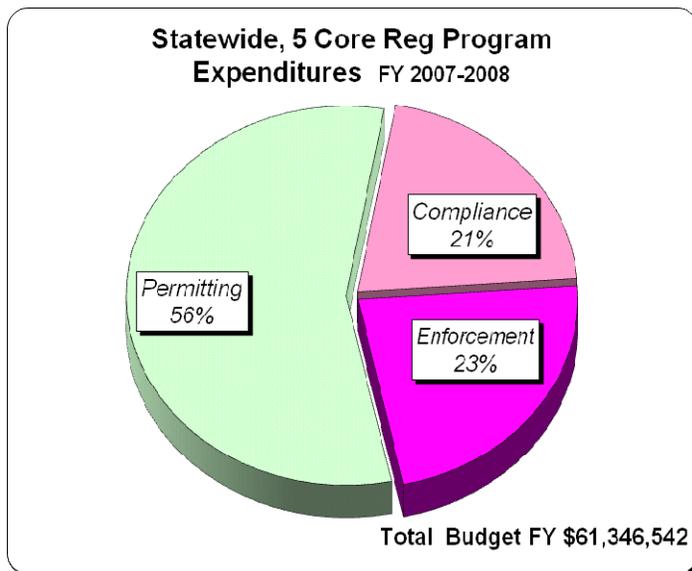
Table 1: FY 2007/2008 Summary of Office of Enforcement Actions

Program	Administrative Civil Liability Actions/ Settlements	Referral to Other Agency	Disciplinary Action	Penalty amount
Cleanup Remediation	1			\$35,000
Tank Tester Licensing	2	3		\$30,000
Operator Certification	3	1	2	\$45,500
TOTAL	6	4	2	\$110,500

Section 3

Compliance and Enforcement Resources at the Water Boards (Inputs)

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



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

require a high level of specialization and skill to document inspections, identify violations, prepare enforcement cases, and present expert testimony at hearings. Inspectors at the Water Boards ensure that requirements are complied with, review discharger's SMRs, and document violations in the database. Once violations are identified and documented, they are prioritized for enforcement. Cases are developed with advice and assistance from the Water Boards' staff counsels. The Regional Water Boards have approximately 176 (174 during previous FY 06-07) staff dedicated to compliance and enforcement activities statewide.

The State Water Board's Office of Enforcement had 18 staff dedicated for special investigations and enforcement during Fiscal Year 2007-2008. These staff included a team of three prosecutors assisting Water Board staff with their enforcement cases.

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

The following tables present estimates, provided by the rRegional wWater bBoards, of compliance and enforcement personnel in Fiscal Year 2007-2008.

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

Table 2: FY 2007-2008 Estimates of Regional Water Boards' Compliance Determination Personnel by Program

Region	NPDES	STORM WATER	WDR	LAND DISPOSAL	401 Cert	TOTAL
	PY	PY	PY	PY	PY	PY
Region 1	0.5	1.9	1.6	1.5	0.1	5.60
Region 2	2.1	3.4	0.6	0.5	0.7	7.30
Region 3	2.5	3	4.2	1	0.1	10.80
Region 4	2.5	6	1	1	0	10.50
Region 5	3.7	4.4	2.8	9.9	0	20.80
Region 6	0.2	0.3	1	2.1	0	3.60
Region 7	2	1.9	3	5	0.4	12.30
Region 8	3	7.1	0.4	2.4	0.1	13.00
Region 9	2.1	3.8	1.8	2.3	0	10.00
Total	18.60	31.80	16.40	25.70	1.40	93.90

PY= Person Year

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

Table 3: FY 2007-2008 Estimates of Regional Water Boards' Enforcement Personnel by Program

Region	NPDES	STORM WATER	WDR	LAND DISPOSAL	401 Cert	TOTAL
	PY	PY	PY	PY	PY	PY
Region 1	1.8	0.5	0.7	0.1	0.1	3.20
Region 2	3.8	2	0.4	0.9	0.3	7.40
Region 3	1.5	1	3.5	0.1	0.1	6.20
Region 4	3.5	1.4	0.3	0.1	0.1	5.40
Region 5	4.1	3.6	3.5	10.9	0.1	22.20
Region 6	0.4	1.5	2.3	0.1	0	4.30
Region 7	1	0.2	1.6	0.1	0	2.90
Region 8	4.2	3.3	0	0.3	0.2	8.00
Region 9	0.6	2.3	0.6	0.6	0.1	4.20
Total	20.90	15.80	12.90	13.20	1.00	63.80

PY= Person Year

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

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

The distribution of dedicated compliance and enforcement resources and the workload, or average number of permitted facilities assigned for every compliance and enforcement staff, also varies significantly among regions and programs.

Figure 1 shows the variation in the distribution of resources by program type, and

Figure 1: Core Reg. Programs Expenditures

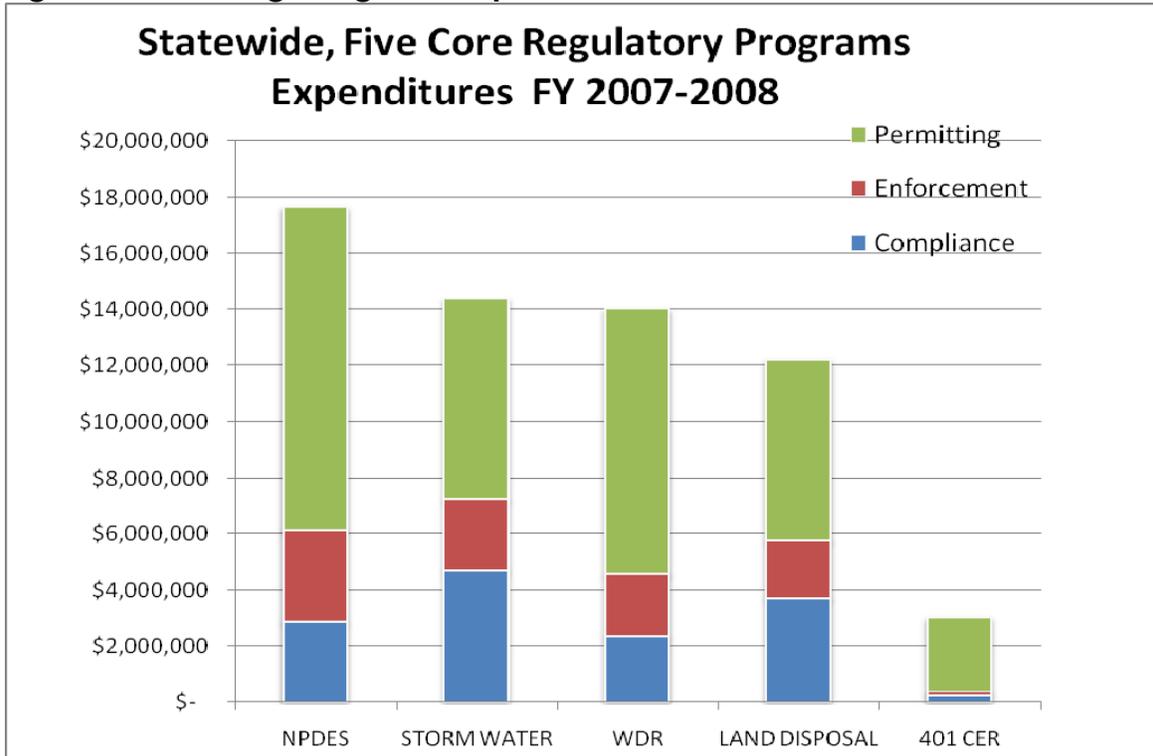
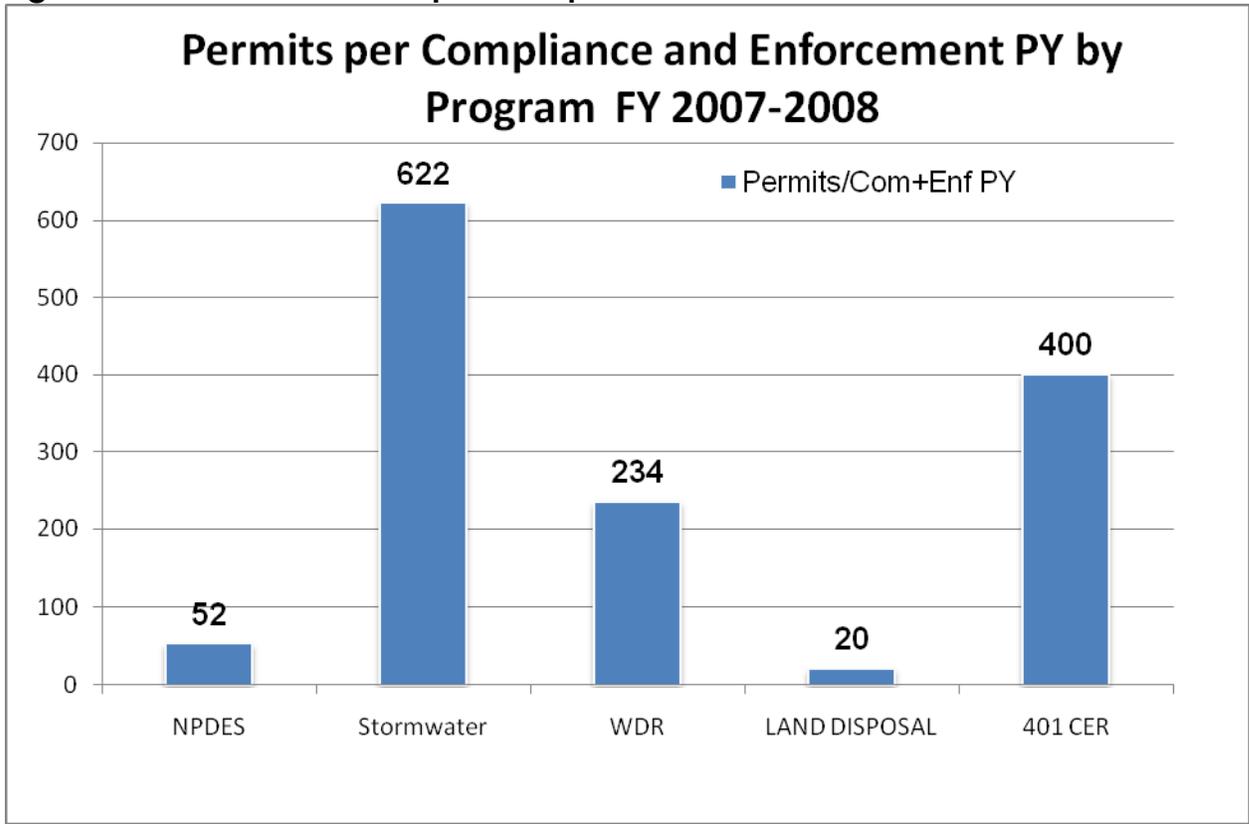


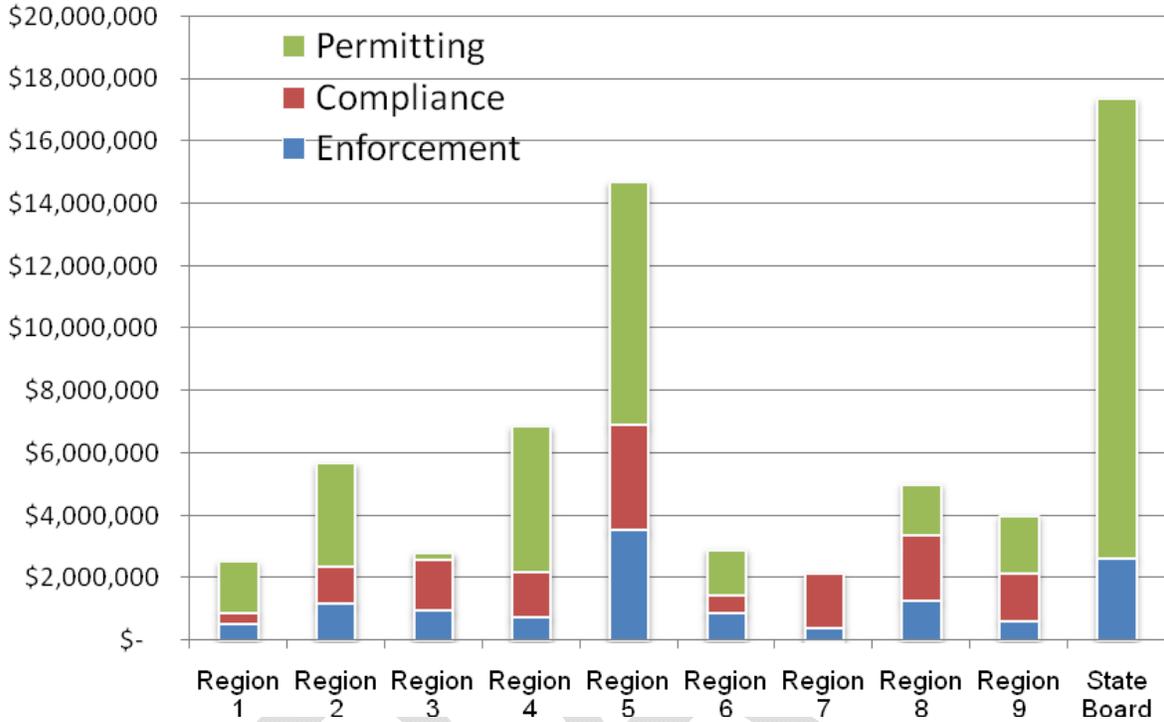
Figure 2 shows the different ratios of number of permits per staff that go from of 622 stormwater facilities per compliance and enforcement staff compared to only 20 land disposal facilities per compliance and enforcement staff.

Figure 2: Number of Permits per Compliance and Enforcement PY



The distribution of resources between activities such as permitting, compliance and enforcement not only varies by program but there are significant differences among Regional Board offices as shown in Figure 3. The State Water Board devotes its resources primarily to the development and adoption of statewide standards and policies, general permits, and statewide plans, issuance of water quality control plans in areas of statewide significance, and approval of regional water quality control plans

Figure 3: Core Regulatory Programs Expenditures by Region
Five Core Regulatory Programs Expenditures by
Region FY 2007-2008



Section 4

Compliance and Enforcement Outputs by the Regional Water Boards

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

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

Violations vary from not submitting monitoring reports on time to acute toxicity violations. The Water Boards identify priority violations based on criteria identified in the current [Water Quality Enforcement Policy](#) (Resolution No. 2002-0040). A priority violation represents a greater threat to water quality than other violations.³

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

³ The proposed revisions to the Water Quality Enforcement Policy will provide further differentiation of violations for enforcement prioritization purposes.

The Water Boards have a variety of enforcement tools available. Enforcement actions taken as a result of a violation include informal and formal actions. An informal enforcement action is any enforcement action taken by Water Board staff that is not defined in statute, such as staff letters and notices of violation. The relatively low number of informal enforcement actions recorded in CIWQS and presented in this report may not accurately represent the level of effort spent by staff in performing these activities. Formal enforcement actions are statutorily recognized actions to address a violation or threatened violation such as Cleanup and Abatement Orders and assessment of penalties. The term "Receiving Enforcement" used in the tables in this Section includes both informal and formal actions taken to address documented violations.

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

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

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

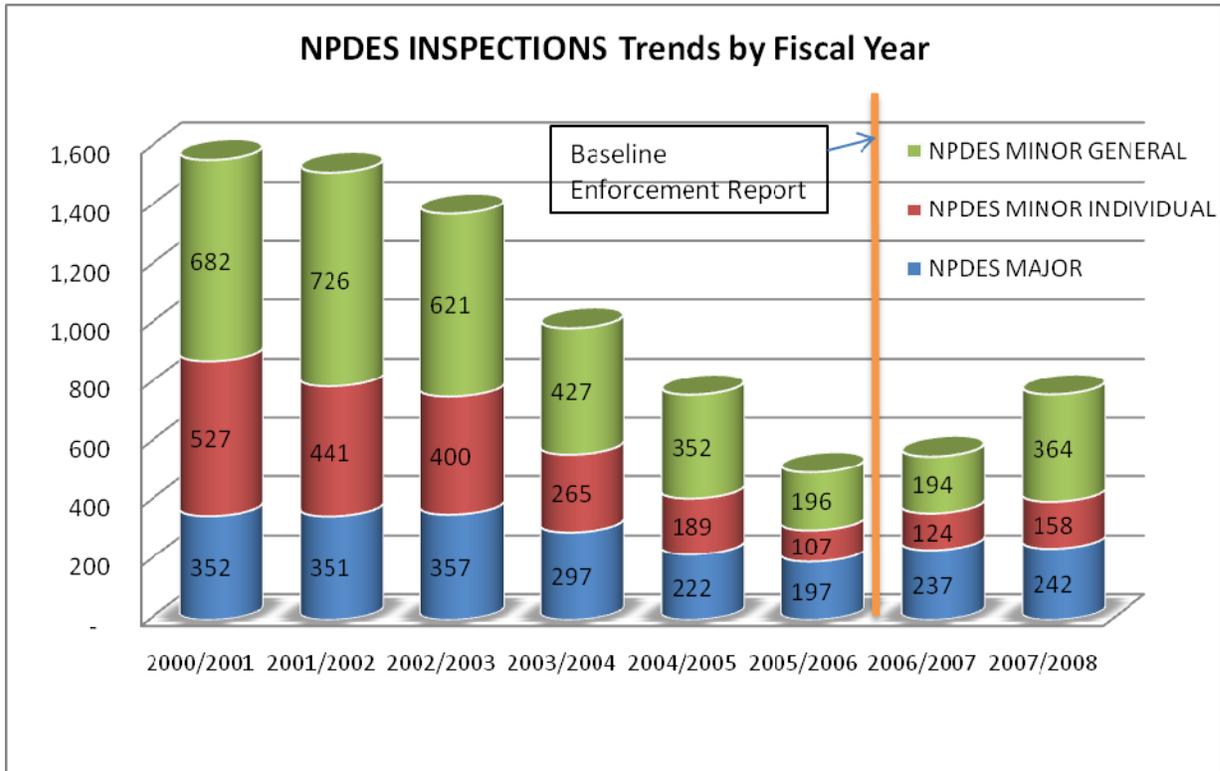
NPDES Wastewater Program Outputs

Compliance Assurance Outputs

More than 14,800 self monitoring reports are received annually by the Regional Water Boards to comply with the NPDES wastewater program requirements. SMRs are submitted with different frequencies. Most dischargers submit quarterly and annual reports. Major dischargers for the NPDES program may be also required to submit monthly reports. All regulated facilities must submit, at a minimum, an annual report. For Fiscal Year 2007-2008 the CIWQS database was not capable of tracking monitoring reports due, received and reviewed for the programs described in this report. Therefore, at this time it is not possible to produce statistics about the SMRs. It is also important to mention that the majority of the violations identified in this report have been detected through the manual review of SMRs.

Inspections conducted are tracked in the CIWQS database and for the NPDES wastewater program, 655 facilities were inspected during Fiscal Year 2007-2008. According to the 2006 NPDES Memorandum of Agreement between US EPA (Region 9) and the Water Boards, inspection frequencies are as follows: All major dischargers will be inspected at least once a year. Minor dischargers generally will be inspected once a year, as resources allow, but no less than once during the five-year permit cycle. The following chart displays the trends in the number of inspections conducted from FY 2000-2001. For the NPDES program, some of the inspections are conducted by contractors under supervision from US EPA Region 9.

Figure 4: NPDES Inspections Trends FY00-01- FY07-08



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

Table 4: NPDES Wastewater, Major Facilities, Inspections FY07-08

NPDES Major	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	19	13	14	93%
Region 2	49	48	56	86%
Region 3	22	13	22	59%
Region 4	34	32	45	71%
Region 5 Fresno	6	4	7	57%
Region 5 Redding	19	11	13	85%
Region 5 Sacramento	47	31	38	82%
Region 5 Total	72	46	58	79%
Region 6 Tahoe	1	1	1	100%
Region 6 Victorville	2	1	2	50%
Region 6 Total	3	2	3	67%
Region 7	9	9	9	100%
Region 8	17	16	19	84%
Region 9	17	17	37	46%
Totals	242	196	263	75%

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

Table 5: NPDES Wastewater, Minor Individually Regulated Facilities, Inspections

NPDES Minor	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	24	18	32	56%
Region 2	-	-	18	0%
Region 3	5	5	20	25%
Region 4	25	23	78	29%
Region 5 Fresno	11	11	25	44%
Region 5 Redding	40	22	54	41%
Region 5 Sacramento	39	33	58	57%
Region 5 Total	90	66	137	48%
Region 6 Tahoe	-	-	4	0%
Region 6 Victorville	1	1	5	20%
Region 6 Total	1	1	9	11%
Region 7	2	2	16	13%
Region 8	7	7	18	39%
Region 9	4	4	24	17%
Totals	158	126	352	36%

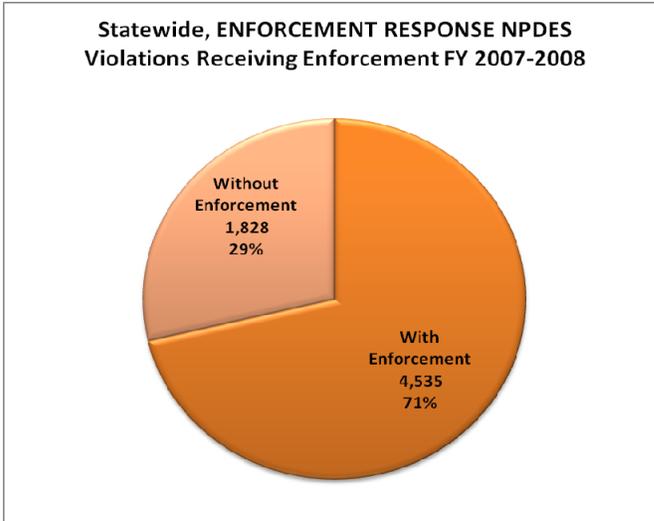
Table 6: NPDES Wastewater, Minor Facilities Enrolled Under a General permit, Inspections FY07/08

NPDES General	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	3	1	21	5%
Region 2	2	2	199	1%
Region 3	8	8	70	11%
Region 4	203	186	481	39%
Region 5 Fresno	3	3	17	18%
Region 5 Redding	2	2	17	12%
Region 5 Sacramento	1	1	132	1%
Region 5 Total	6	6	166	4%
Region 6 Tahoe	-	-	9	0%
Region 6 Victorville	-	-	7	0%
Region 6 Total	-	-	16	0%
Region 7	-	-	38	0%
Region 8	141	129	361	36%
Region 9	1	1	71	1%
Totals	364	333	1,423	23%

~~According to the 2006 NPDES Memorandum of Agreement between US EPA (Region 9) and the Water Boards, inspection frequencies are as follows: All~~

~~major dischargers will be inspected at least once a year. Minor dischargers generally will be inspected once a year, as resources allow, but no less than once during the five-year permit cycle.~~

Figure 5: NPDES Enforcement Response



Approximately 75% of major NPDES facilities and 36% of minor individual NPDES facilities were inspected during Fiscal Year 2007-2008.

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

the large variability in the number of violations and enforcement actions.

Table 7: MAJOR NPDES Dischargers: Compliance and Enforcement Outputs FY 2007-2008

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	14	217	139	64%	60	48	80%
2	56	130	52	40%	48	17	35%
3	22	219	73	33%	52	37	71%
4	45	268	205	76%	91	79	87%
5F	7	16	10	63%	2	2	100%
5R	13	18	18	100%	7	7	100%
5S	38	505	377	75%	226	149	66%
5 Total	58	539	405	75%	235	158	67%
6A	1	3	1	33%	-	-	
6B	2	7	3	43%	6	3	50%
6 Total	3	10	4	40%	6	3	50%
7	9	159	157	99%	101	101	100%
8	19	55	49	89%	3	1	33%
9	37	240	112	47%	49	47	96%
Totals	263	1,837	1,196	65%	645	491	76%

**Table 8: MINOR Individual NPDES Dischargers: Compliance and Enforcement Outputs
FY 2007-2008**

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	32	137	96	70%	79	72	91%
2	18	31	11	35%	10	5	50%
3	20	52	21	40%	12	5	42%
4	78	364	226	62%	158	154	97%
5F	25	206	116	56%	142	80	56%
5R	54	47	44	94%	1	-	0%
5S	58	1,582	1,457	92%	874	810	93%
5 Total	137	1,835	1,617	88%	1,017	890	88%
6A	4	6	2	33%	3	1	33%
6B	5	26	17	65%	3	3	100%
6 Total	9	32	19	59%	6	4	67%
7	16	175	174	99%	66	66	100%
8	18	22	21	95%	-	-	
9	24	93	92	99%	90	89	99%
Totals	352	2,741	2,277	83%	1,438	1,285	89%

Not all documented violations during FY 2007-2008 received an enforcement action. Approximately 71% of all NPDES violations received some level of enforcement.

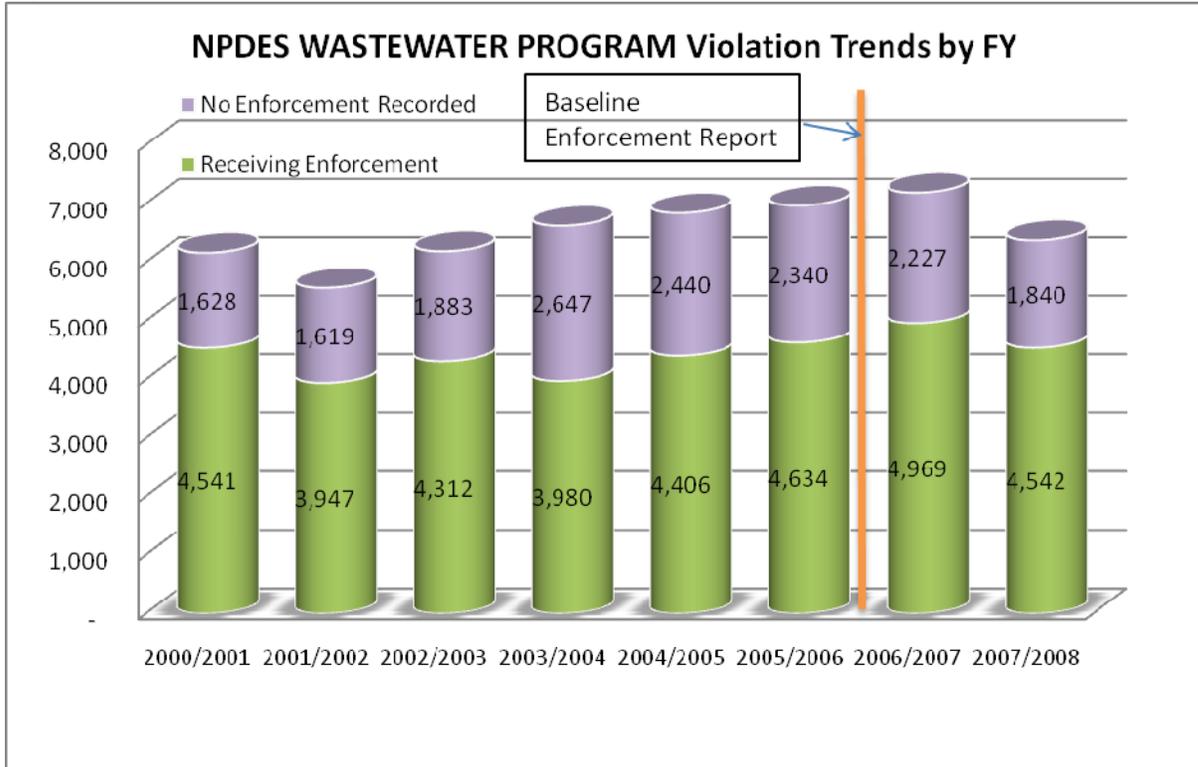
The reasons for this variability include differences in facility-specific requirements, differences in Regional Water Board office processes and priority assigned to report review and data entry, differing rates of compliance among dischargers, and the redirection of resources to address other program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

Table 9: MINOR General NPDES Dischargers: Compliance and Enforcement Outputs FY 2007-2008

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	21	4	-	0%	-	-	
2	199	50	9	18%	15	6	40%
3	70	48	26	54%	14	7	50%
4	481	1,515	952	63%	907	845	93%
5F	17	59	-	0%	44	-	0%
5R	17	-	-		-	-	
5S	132	14	2	14%	4	-	0%
5 Total	166	73	2	3%	48	-	0%
6A	9	2	1	50%	-	-	
6B	7	-	-		-	-	
6 Total	16	2	1	50%	-	-	
7	38	7	7	100%	5	5	100%
8	361	42	35	83%	-	-	
9	71	44	30	68%	24	22	92%
Totals	1,423	1,785	1,062	59%	1,013	885	87%

As shown in Figure 6, trends in the number of violations receiving and not receiving both formal and informal enforcement for the entire NPDES wastewater program have remained somewhat constant since violation data was collected. The upward trend may be explained due to better violation documentation in the Water Boards' databases. Also, the percentage of violations receiving enforcement remained around 65% during this period.

Figure 6: NPDES Wastewater Violations Trends



Enforcement Action Outputs

The following tables list the number of enforcement actions taken by the Regional Water Boards listed from informal to more formal, during Fiscal Year 2007-2008.

Table 10: NPDES Wastewater MAJOR Facilities, Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter		1				2				33	1	7	44
Oral Communication		2				7							9
Notice of Violation	2	4	2	11		3	5		1			8	36
Expedited Payment Letter	4			1									5
13267 Letter						3	2						5
Clean-up and Abatement Order		1											1
Time Schedule Order				3			2						5
Cease and Desist Order		6		1	1		2			1			11
Admin. Civil Liability	6	2	1	2			11			1	2		25
TOTAL	12	16	3	18	1	15	22	0	1	35	3	15	141

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

Table 11: NPDES Wastewater MINOR Individual Facilities, Enforcement Actions for Fiscal Year 2007-2008

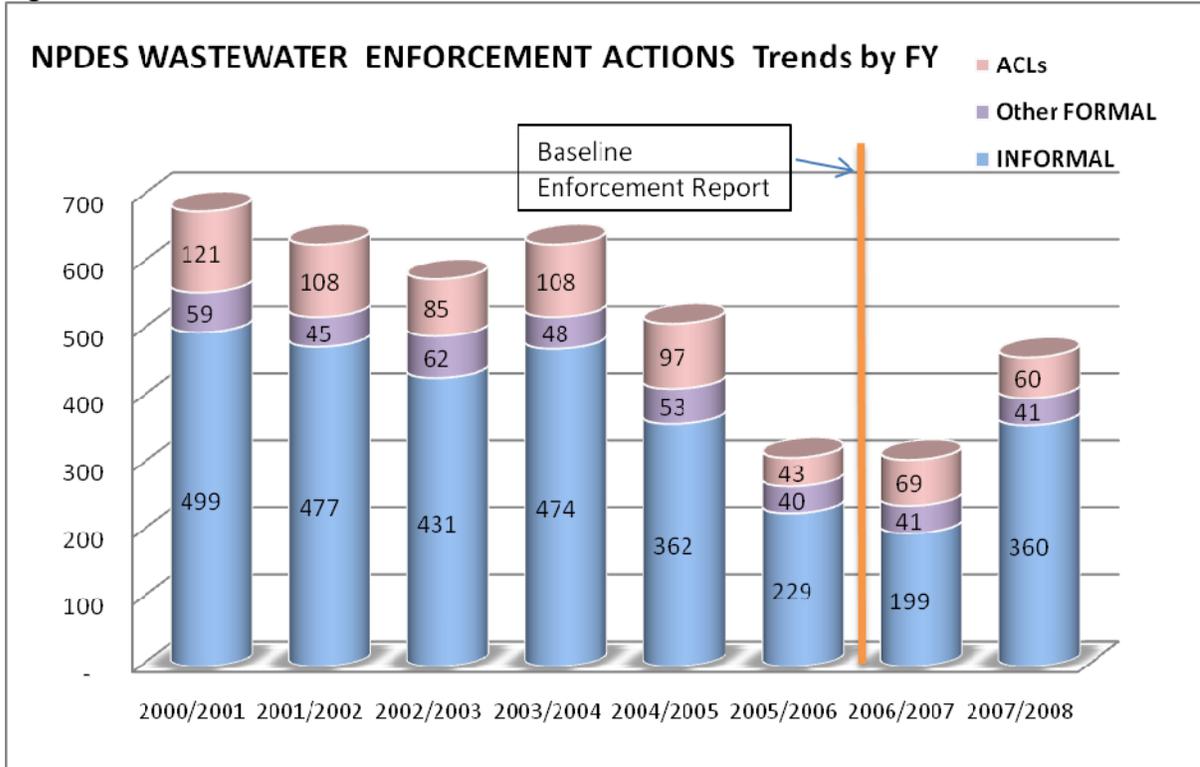
Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter						7					51	2	60
Oral Communication			4			16			5		12		37
Notice to Comply										4			4
Notice of Violation				2	20	11	7	2	3		1		46
Expedited Payment Letter	4			1									5
13267 Letter				1			1						2
Clean-up and Abatement Order				1									1
Time Schedule Order				2			3						5
Cease and Desist Order		2					4		1				7
Settlement - Court Order				1									1
Admin. Civil Liability	7			1		5	13			2	1	1	30
TOTAL	11	2	6	27	0	39	28	2	9	57	14	3	198

Table 12: NPDES Wastewater MINOR General Facilities, Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter	1		1		1	1				7	1		12
Oral Communication			2								37		39
Notice to Comply											2		2
Notice of Violation		1	6	49				1			2	2	61
13267 Letter		1											1
Cease and Desist Order		2											2
Admin. Civil Liability		4									1		5
TOTAL	1	8	9	49	1	1	0	1	0	7	43	2	122

The number of enforcement actions has fluctuated significantly since FY 2000-2001, both in numbers and in the type of enforcement actions taken. Informal actions remain at high levels. The number of Administrative Civil Liabilities (imposing penalties) in FY 2007-2008 has increased substantially, however, are still not achieving approaching levels seen during 2000 to 2005.

Figure 7: NPDES Wastewater Enforcement Actions Trends



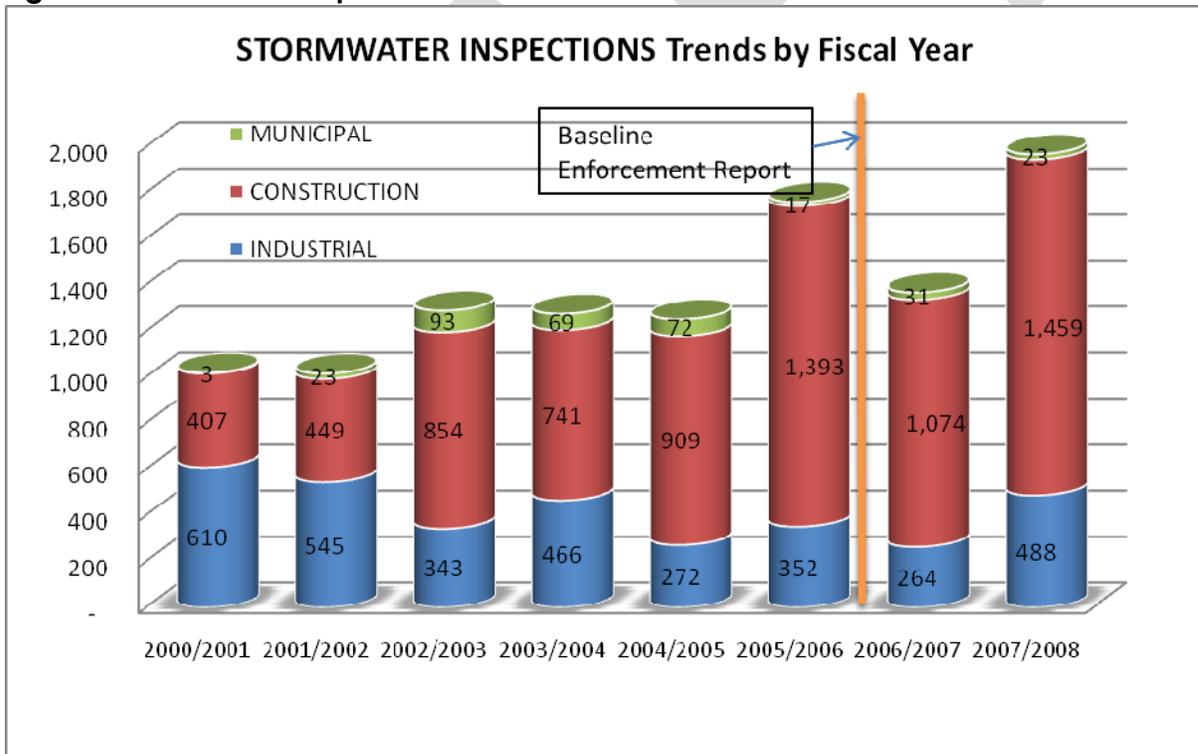
NPDES Stormwater Program Outputs

Compliance Assurance Outputs

More than 9,000 SMRs are received every year by the Regional Water Boards to comply with the industrial storm water program requirements⁴. Monitoring reports are submitted annually or as specified in the permit requirements. For Fiscal Year 2007-2008 the CIWQS database was not capable of tracking monitoring reports due, received and reviewed for the stormwater program. At this time it is not possible to produce statistics about the number of SMRs for which compliance was assessed.

Inspections conducted are tracked in the CIWQS database. For the Stormwater Program 1,535 facilities were inspected during Fiscal Year 2007-2008. The following chart displays the trends in the number of inspections conducted since FY 2000-2001⁵.

Figure 8: Stormwater Inspections Trends



⁴ At the time of this report, entities regulated under the construction stormwater permit were not required to submit monitoring reports

⁵ *This figure does not reflect the approximately 9,000 inspections conducted by the Los Angeles Regional Water Board that had not been entered into CIWQS.

The NPDES stormwater program regulates three types of dischargers: industrial activities, construction activities and municipal (phases I and II). [Information for construction and industrial facilities is presented in tables 13, 14, 15, 16, 17, 18. Tables 19 and 20 summarizes the information for municipal stormwater dischargers.](#) The percentage of facilities inspected for each region and for each discharger type varies. [Note that multiple inspections may be conducted at a single facility](#)

Table 13: NPDES Stormwater Industrial Inspections FY 07-08

SW Industrial	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	54	39	355	11%
Region 2	24	24	1,425	2%
Region 3	4	4	410	1%
Region 4	46	44	2,989	1%
Region 5 Fresno	19	18	576	3%
Region 5 Redding	49	36	197	18%
Region 5 Sacramento	46	45	1197	4%
Region 5 Total	114	99	1,970	5%
Region 6 Tahoe	6	5	62	8%
Region 6 Victorville	-	-	177	0%
Region 6 Total	6	5	239	2%
Region 7	32	16	167	10%
Region 8	168	142	1595	9%
Region 9	40	37	755	5%
Totals	488	410	9,905	4%

Table 14: NPDES Stormwater Construction Inspections FY 07-08

SW Construction	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	122	99	439	23%
Region 2	5	5	1,876	0%
Region 3	25	18	902	2%
Region 4	46	43	2,984	1%
Region 5 Fresno	21	19	1309	1%
Region 5 Redding	137	93	449	21%
Region 5 Sacramento	199	142	2974	5%
Region 5 Total	357	254	4,732	5%
Region 6 Tahoe	12	12	295	4%
Region 6 Victorville	39	7	872	1%
Region 6 Total	51	19	1,167	2%
Region 7	45	44	663	7%
Region 8	757	663	3650	18%
Region 9	50	29	2405	1%
Totals	1,458	1,174	18,818	6%

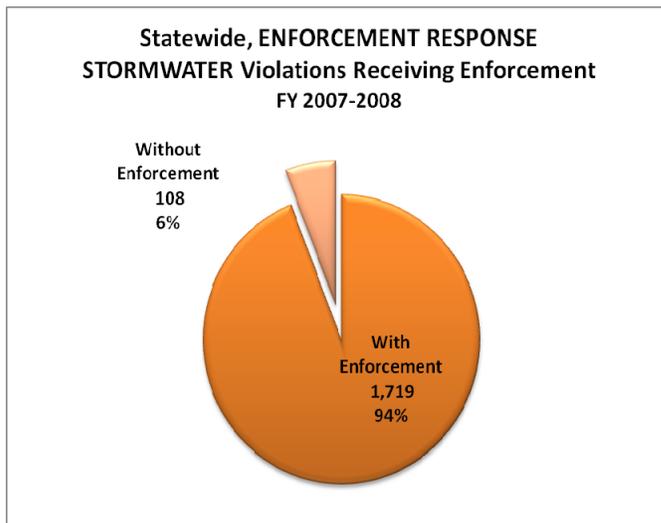
The percentage of facilities inspected is low compared to the number of facilities regulated. This can be explained by the large number of facilities regulated under the program. The stormwater program has an active inspection program and conducts the most inspections of the five core regulatory programs.

Table 15: NPDES Stormwater MS4, Inspections FY 07-08

Municipal Stormwater	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region-1	-	-	20	0%
Region-2	-	-	102	0%
Region-3	-	-	18	0%
Region-4	-	-	100	0%
Region-5-Fresno	-	-	20	0%
Region-5-Redding	-	-	6	0%
Region-5-Sacramento	-	-	60	0%
Region-5 Total	-	-	86	0%
Region-6-Tahoe	-	-	11	0%
Region-6-Victorville	-	-	5	0%
Region-6 Total	-	-	16	0%
Region-7	-	-	14	0%
Region-8	13	12	72	17%
Region-9	10	7	75	9%
Totals	23	19	503	4%

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

Figure 9: Stormwater Enforcement Response



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

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

sites are largely regulated through self-monitoring to ensure compliance with specific effluent limits, stormwater sites are regulated to ensure that sediment and other potential contaminants are prevented from leaving these sites though proper on-site controls. Ensuring that these controls are adequate for the nearly 30,000 permitted stormwater permittees would require a large field presence.

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

Table 15: Stormwater Industrial Enforcement Response FY 07-08

Industrial Stormwater	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	355	96	85	89%
Region 2	1,425	287	283	99%
Region 3	410	53	52	98%
Region 4	2,989	99	93	94%
Region 5 Fresno	576	15	15	100%
Region 5 Redding	197	54	54	100%
Region 5 Sacramento	1,197	283	280	99%
Region 5 Total	1,970	352	349	99%
Region 6 Tahoe	62	8	4	50%
Region 6 Victorville	177	2	2	100%
Region 6 Total	239	10	6	60%
Region 7	167	41	41	100%
Region 8	1,595	371	359	97%
Region 9	755	41	36	88%
Totals	9,905	1,350	1,304	97%

* Data from CIWQS

Table 16: Stormwater Construction Enforcement Response FY 07-08

Construction Stormwater	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	439	4	-	0%
Region 2	1,876	8	6	75%
Region 3	902	7	3	43%
Region 4	2,984	80	80	100%
Region 5 Fresno	1,309	3	2	67%
Region 5 Redding	449	31	30	97%
Region 5 Sacramento	2,974	147	126	86%
Region 5 Total	4,732	181	158	87%
Region 6 Tahoe	295	11	1	9%
Region 6 Victorville	872	20	12	60%
Region 6 Total	1,167	31	13	42%
Region 7	663	-	-	
Region 8	3,650	49	47	96%
Region 9	2,405	73	70	96%
Totals	18,818	433	377	87%

* Data from CIWQS

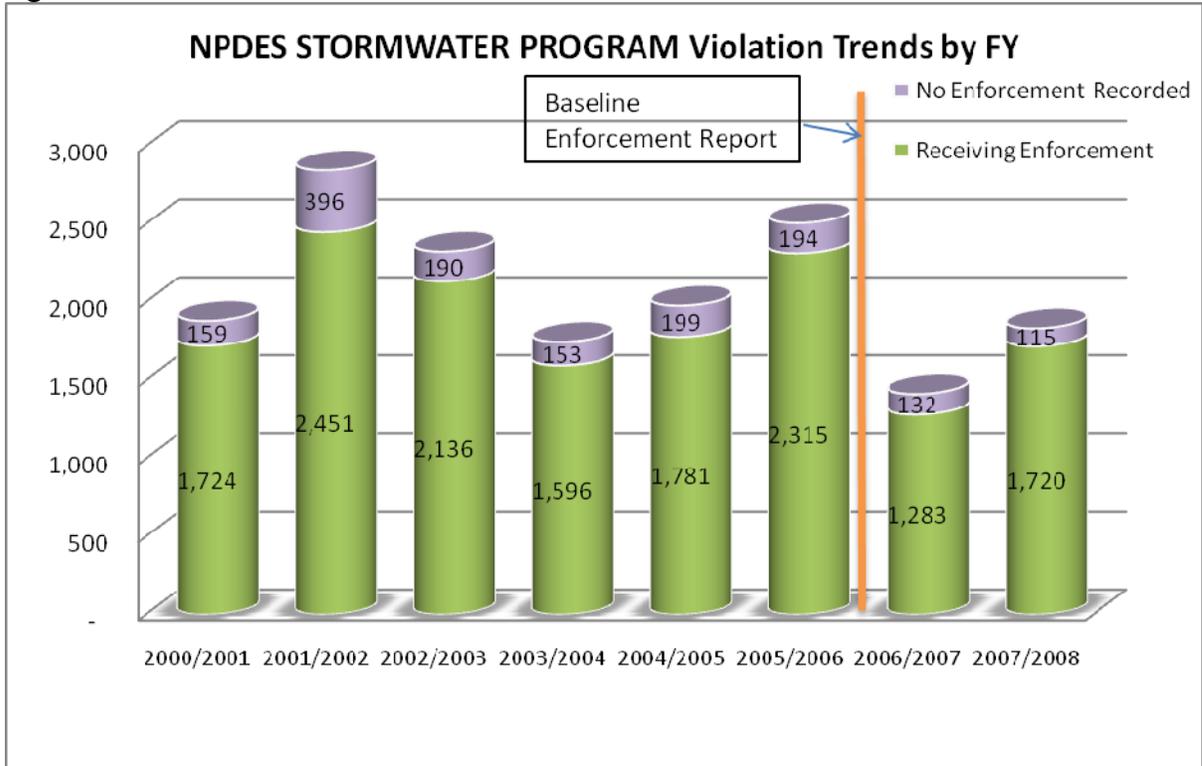
Table 18: Stormwater Municipal Enforcement Response FY 07-08

Municipal Stormwater	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	20	4	-	0%
Region 2	102	-	-	
Region 3	18	4	-	0%
Region 4	100	-	-	
Region 5 Fresno	20	-	-	
Region 5 Redding	6	-	-	
Region 5 Sacramento	60	4	4	100%
Region 5 Total	86	4	4	100%
Region 6 Tahoe	11	4	4	100%
Region 6 Victorville	5	-	-	
Region 6 Total	16	4	4	100%
Region 7	14	-	-	
Region 8	72	4	4	100%
Region 9	75	36	35	97%
Totals	503	44	38	86%

* Data from CIWQS

The number of violations receiving and not receiving enforcement for the NPDES Stormwater program has fluctuated since Fiscal Year 2000-2001. Violation recording may have been affected by the implementation of the new database. Also the percentage of violations receiving enforcement remained above 90% during this period.

Figure 10: NPDES Stormwater Violations Trends



Enforcement Action Outputs

Tables 179, 2018 and 2119 lists the number of enforcement actions taken by the Regional Water Boards ranked from informal to more formal during FY 07-08.

Table 17: STORMWATER Industrial Enforcement Actions for Fiscal Year 2007/2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter	55				1	6	148				3	15	228
Oral Communication		8			1	1	1				47	1	59
Notice to Comply	1			19						41		2	63
Notice of Violation	10	5		19	4	7	5	2	1		4	93	150
Notice of Stormwater Noncompliance	30	353	71	4	11	46	162	4			389	3	1,073
13267 Letter						1							1
Clean-up and Abatement Order						1							1
Admin Civil Liability		1	3								8		12
TOTAL	96	367	74	42	17	62	316	6	1	41	451	114	1,587

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

Table 18: STORMWATER Construction Enforcement Actions for Fiscal Year 07/08

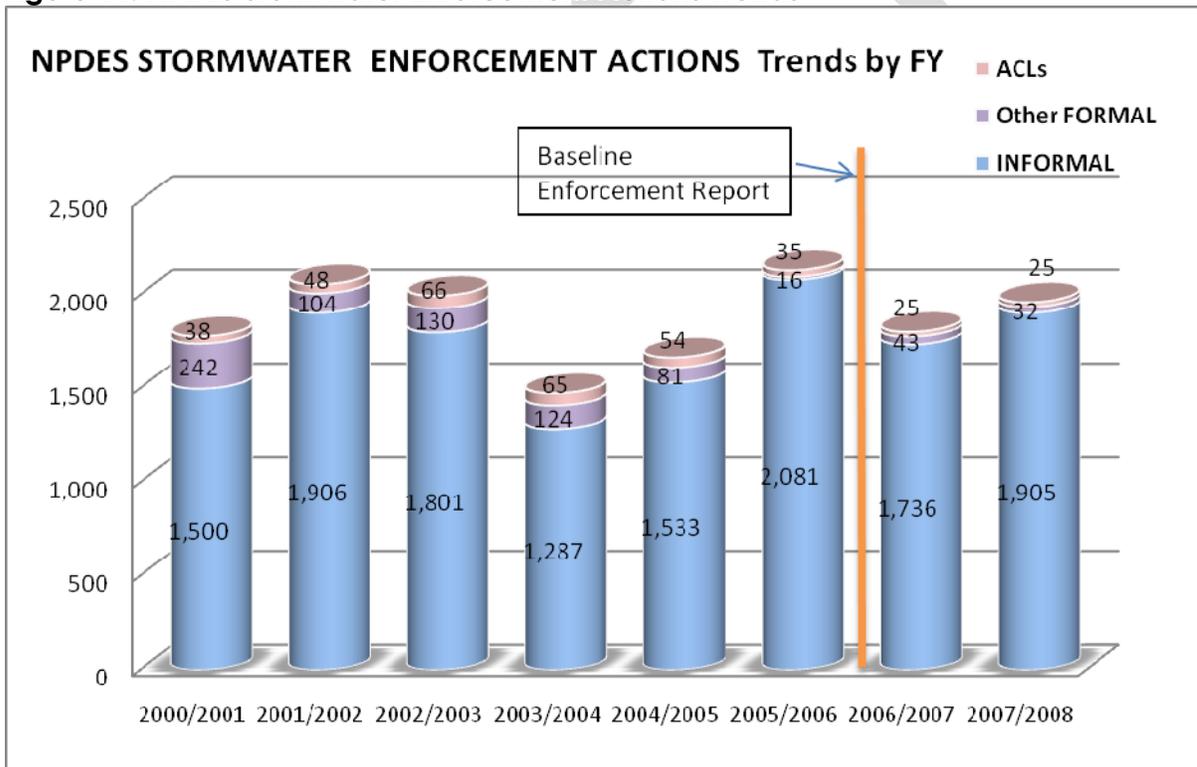
Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter					1					1	7	6	15
Oral Communication						6	38			2	76		122
Notice to Comply				12									12
Notice of Violation			3	16	1	28	38	3			2	44	135
Notice of Stormwater Noncomp		1		1			9				1		12
13267 Letter			4					8	4			2	18
Clean-up and Abatement Order							1		3			1	5
13308 Enforcement Action						1							1
Settlement - Court Order											1		1
Admin Civil Liability				1		1	4					3	9
TOTAL	1	7	1	29	2	36	90	11	10	0	87	56	330

Table 19: STORMWATER Municipal Enforcement Actions for Fiscal Year 07/08

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter												2	2
Notice of Violation				24			1				5	4	34
13267 Letter												4	4
Clean-up and Abatement Order	1												1
Admin Civil Liability		1									3		4
TOTAL	1	1	0	24	0	0	1	0	0	0	8	10	45

The enforcement efforts for the stormwater program have remained at fairly constant levels as shown in Figure 11.

Figure 11: NPDES Stormwater Enforcement Actions Trends



This Annual Enforcement Report provides detail on the categories of stormwater regulation. This year's report displays stormwater program information for three categories of dischargers: municipal, construction and industrial. The Municipal Storm Water Permitting Program (regulating storm water discharges from municipal separate storm sewer systems or (MS4s) is divided into two phases. Under Phase I, the Regional Water Quality Control Boards have adopted National Pollutant Discharge Elimination System General

Permit (NPDES) storm water permits for medium (serving between 100,000 and 250,000 people) and large (serving 250,000 people) municipalities. Most of these permits are issued to a group of co-permittees encompassing an entire metropolitan area. As part of Phase II, the State Water Resources Control Board regulates smaller municipalities, including non-traditional Small MS4s, which are governmental facilities such as military bases, public campuses, and prison and hospital complexes.

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

Table 20: MS4 Compliance and Enforcement Outputs FY 07-08

401 CER	No. of Facilities Phase I	No. of Facilities Phase II	Facilities Audited	Violations		
				Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
<u>Region 1</u>	<u>3</u>	<u>12</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>0%</u>
<u>Region 2</u>	<u>77</u>	<u>28</u>	<u>11</u>	<u>-</u>	<u>-</u>	
<u>Region 3</u>	<u>1</u>	<u>27</u>	<u>-</u>	<u>4</u>	<u>-</u>	<u>0%</u>
<u>Region 4</u>	<u>99</u>	<u>0</u>	<u>-</u>	<u>-</u>	<u>-</u>	
<u>Region 5 Fresno</u>	<u>8</u>	<u>16</u>	<u>-</u>	<u>-</u>	<u>-</u>	
<u>Region 5 Redding</u>	<u>0</u>	<u>3</u>	<u>-</u>	<u>-</u>	<u>-</u>	
<u>Region 5 Sacramento</u>	<u>14</u>	<u>51</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>100%</u>
<u>Region 5 Total</u>	<u>202</u>	<u>137</u>	<u>-</u>	<u>1</u>	<u>1</u>	<u>100%</u>
<u>Region 6 Tahoe</u>	<u>3</u>	<u>2</u>	<u>-</u>	<u>1</u>	<u>1</u>	<u>100%</u>
<u>Region 6 Victorville</u>	<u>0</u>	<u>4</u>	<u>-</u>	<u>-</u>	<u>-</u>	
<u>Region 6 Total</u>	<u>3</u>	<u>6</u>	<u>-</u>	<u>1</u>	<u>1</u>	<u>100%</u>
<u>Region 7</u>	<u>0</u>	<u>6</u>	<u>-</u>	<u>-</u>	<u>-</u>	
<u>Region 8</u>	<u>59</u>	<u>0</u>	<u>12</u>	<u>1</u>	<u>1</u>	<u>100%</u>
<u>Region 9</u>	<u>38</u>	<u>0</u>	<u>7</u>	<u>36</u>	<u>35</u>	<u>97%</u>
<u>Totals</u>	<u>302</u>	<u>149</u>	<u>31</u>	<u>44</u>	<u>38</u>	<u>86%</u>

* Data from CIWQS and information provided by program managers

401 Certification Program Outputs

Compliance Outputs

For the 401 Certification Program, 42 facilities were reported as inspected during FY 2007-2008. The 401 Certification Program does not yet use CIWQS consistently and the data provided is only current for some Regional Water Boards.

Table 21 shows the total number of 401 certifications issued during FY 2007-2008, the number of inspections conducted and the number of violations detected based on information provided by program managers and recorded in CIWQS.

Table 21: 401 Certification Compliance and Enforcement Outputs FY 07-08

401 CER	No. of Facilities	Facilities Inspected	Violations		
			Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	147	2	-	-	
Region 2	167	3	-	-	
Region 3	67	-	-	-	
Region 4	64	1	1	1	100%
Region 5 Fresno	48	4	-	-	
Region 5 Redding	83	21	2	2	100%
Region 5 Sacramento	224	-	-	-	
Region 5 Total	355	25	2	2	100%
Region 6 Tahoe	17	2	2	1	50%
Region 6 Victorville	14	1	-	-	
Region 6 Total	31	3	2	1	50%
Region 7	15	-	-	-	
Region 8	63	1	1	-	0%
Region 9	50	7	24	23	96%
Totals	959	42	30	27	90%

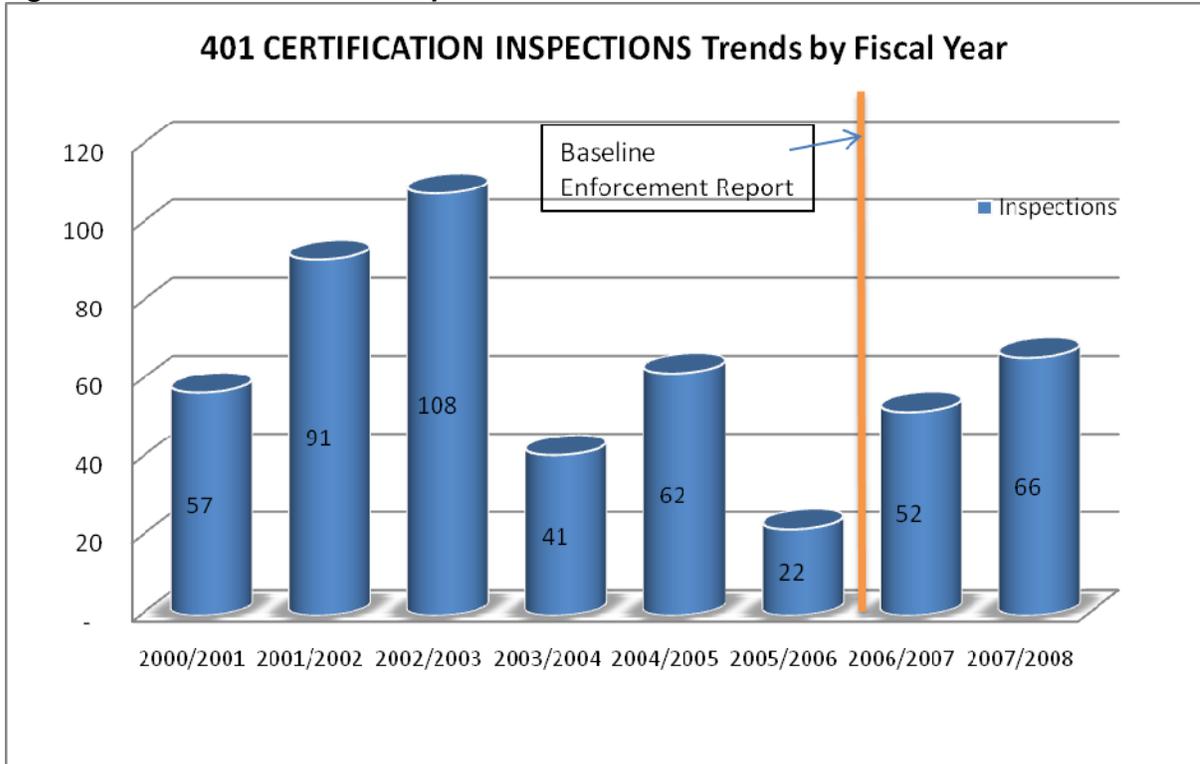
* Data from CIWQS and information provided by program managers

Table 21 shows that there were few documented inspections conducted at the 959 active facilities in the program for the reporting period (inspections were recorded for fewer than 1% of the active facilities) documented in

CIWQS). However, where 401 certification violations were documented in CIWQS for 401 certification violations, the vast majority, 90% received enforcement.

Figure 12 shows the trends in the number of inspections conducted since FY 2000-2001.

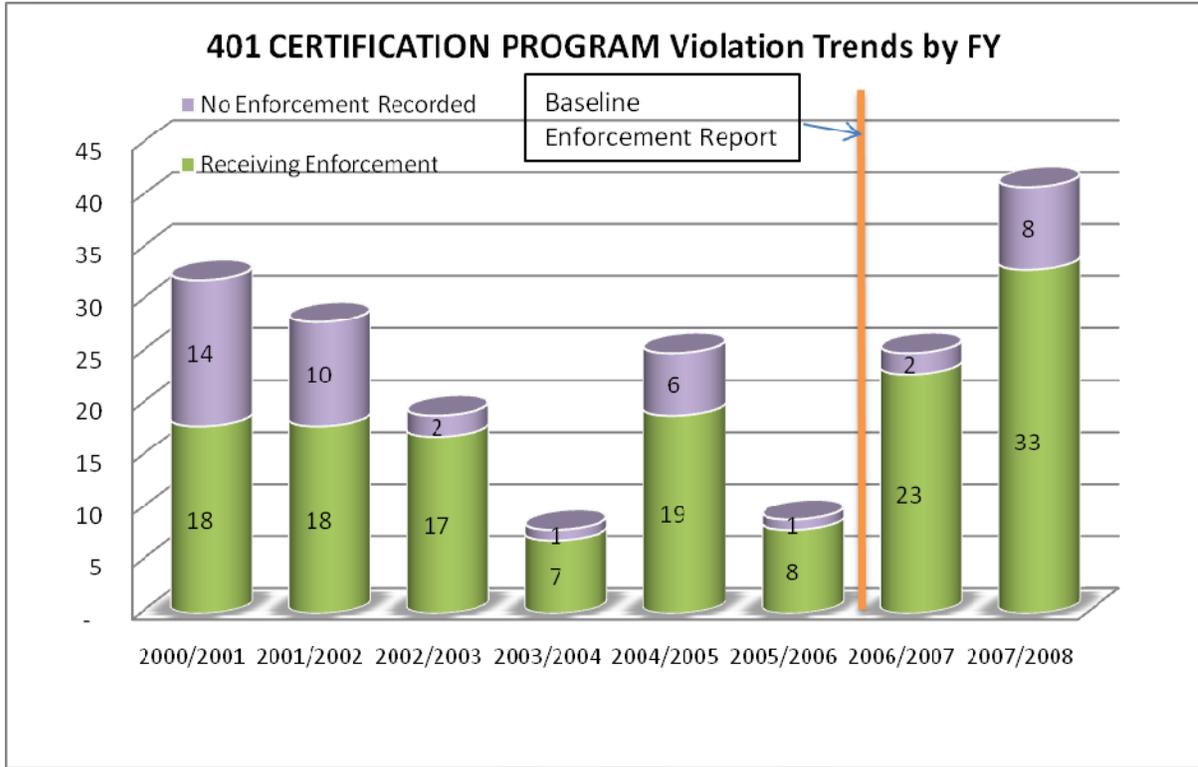
Figure 12: 401 Certification, Inspections Trends



* Data from CIWQS

Trends in the number of violations receiving and not receiving enforcement for the 401 Certification Program has fluctuated since FY 2000-2001 as shown in Figure 13.

Figure 13: 401 Certification, Violations Trends



* Data from CIWQS

Enforcement Action Outputs

Table 22 lists the number of enforcement actions taken by the Regional Water Boards as provided by the 401 program managers, ranked from informal to more formal, during FY 2007-2008.

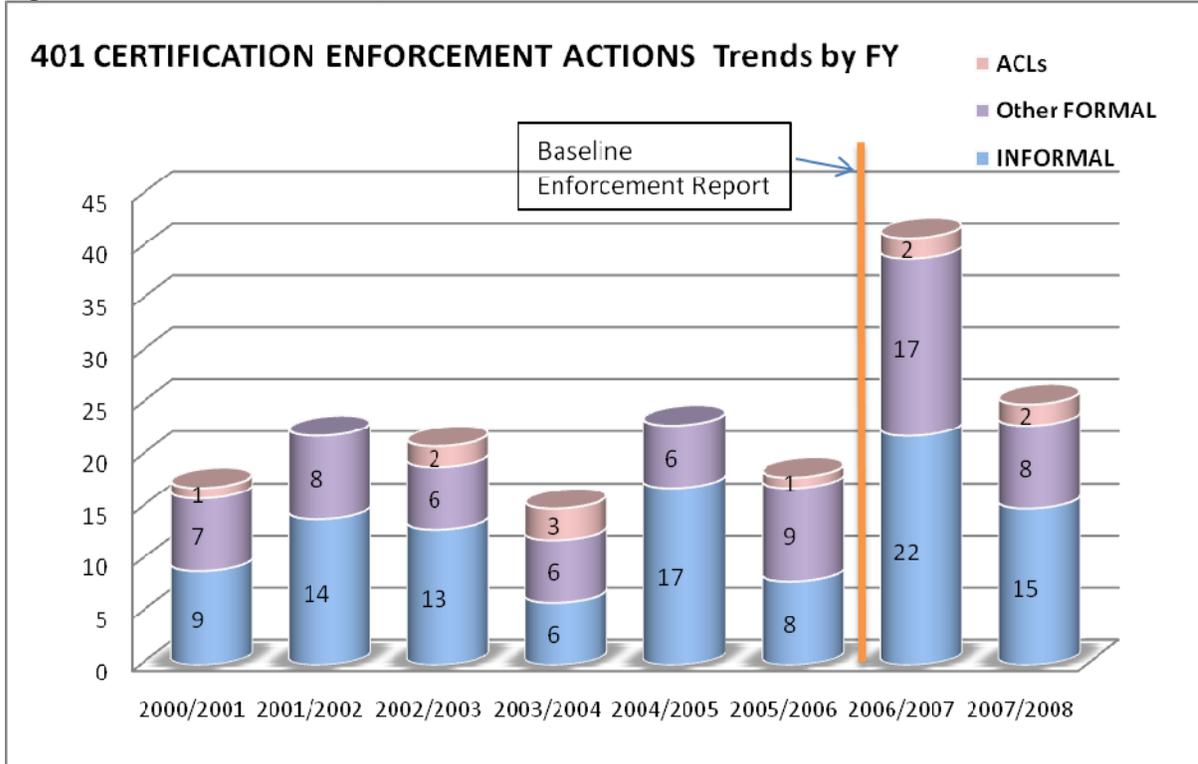
Table 22: 401 CERTIFICATION PROGRAM Enforcement Actions for FY 07/08

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
13267 Letter			1	4								8	13
Admin Civil Liability	1	1						2				4	8
Clean-up and Abatement Order		1		1									2
Notice of Violation	1	4			6	1		2			1	11	26
Oral Communication				9	1	3		3					16
Staff Enforcement Letter					1	2					4	6	13
TOTAL	2	7	0	14	8	6	0	4	3	0	5	29	78

*Data provided by program managers and may not match data in figures

Figure 14 shows enforcement actions issued under the 401 Certification program since Fiscal Year 2000-2001.

Figure 14: 401 Certification, Enforcement Actions Trends



* Data from CIWQS

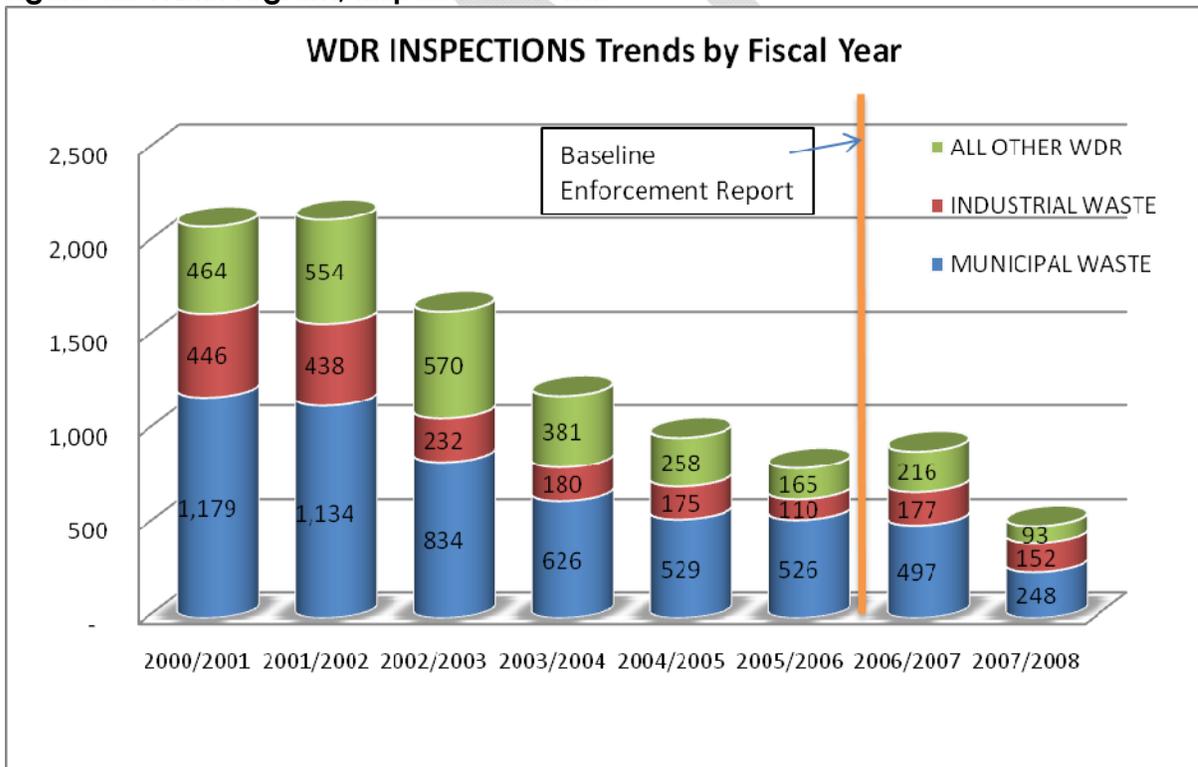
Waste Discharge Requirements (WDR) Program Outputs

Compliance Outputs

More than 25,000 SMRs are received annually by the Regional Water Boards under the WDR program. Monitoring reports are submitted annually or as specified in WDR program requirements. For Fiscal Year 2007-2008 the CIWQS database did not track monitoring reports due, received and reviewed for any program therefore statistics about the number of reports are not included.

The figures and tables below portray a clear reduction in enforcement related program activity. While the data does not describe why this reduction has occurred, it is probable that regional priorities to address the substantial permit backlog in this program took precedent over compliance and enforcement activities. Inspections conducted are tracked in the CIWQS database. For the WDR program, 410 facilities were inspected during FY 2007-2008. Figure 15 shows inspections trends since Fiscal Year 2000-2001.

Figure 15: WDR Program, Inspections Trends



Note that the Water Boards are pioneering efforts to regulate specific categories of discharges nationally. For example, collection systems are in the early stages of regulation through a Statewide Sanitary Sewer Order adopted by the State Water Board in 2006 (see Section 9 for more information). As

program implementation progresses, the numbers of facilities regulated and inspected (as depicted in Table 26) are expected to increase throughout the state.

Facilities regulated under the WDR program can be classified into five categories based on the waste type and the activity type. Categories include: facilities that treat and discharge municipal waste, facilities that discharge industrial waste, wastewater collection systems, dairies and confined animal facilities and all other facilities such as recycled water, timber harvest activities etc. Tables 23 to 27 lists the inspections for the five types of WDR dischargers.

Table 23: WDR Municipal Waste Inspections FY 07-08

WDR Municipal	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	26	25	83	30%
Region 2	-	-	49	0%
Region 3	47	36	189	19%
Region 4	6	6	221	3%
Region 5 Fresno	45	33	245	13%
Region 5 Redding	32	25	143	17%
Region 5 Sacramento	20	16	271	6%
Region 5 Total	97	74	659	11%
Region 6 Tahoe	5	4	31	13%
Region 6 Victorville	26	22	62	35%
Region 6 Total	31	26	93	28%
Region 7	18	14	230	6%
Region 8	19	17	32	53%
Region 9	4	4	128	3%
Totals	248	202	1,684	12%

* All data from CIWQS as of 3/7/2009

Table 24: WDR Industrial Waste Inspections FY 07-08

WDR Industrial	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	4	3	145	2%
Region 2	1	1	14	7%
Region 3	48	34	211	16%
Region 4	-	-	25	0%
Region 5 Fresno	63	56	194	29%
Region 5 Redding	19	13	61	21%
Region 5 Sacramento	7	6	222	3%
Region 5 Total	89	75	477	16%
Region 6 Tahoe	-	-	8	0%
Region 6 Victorville	4	4	8	50%
Region 6 Total	4	4	16	25%
Region 7	2	2	18	11%
Region 8	4	4	34	12%
Region 9	-	-	26	0%
Totals	152	123	966	13%

Table 25: WDR Collection Systems/SSO Inspections FY 07-08

WDR SSO	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	-	-	68	0%
Region 2	-	-	122	0%
Region 3	-	-	102	0%
Region 4	-	-	145	0%
Region 5 Fresno	-	-	145	0%
Region 5 Redding	1	1	54	2%
Region 5 Sacramento	-	-	191	0%
Region 5 Total	1	1	390	0%
Region 6 Tahoe	1	1	23	4%
Region 6 Victorville	4	4	46	9%
Region 6 Total	5	5	69	7%
Region 7	-	-	33	0%
Region 8	-	-	85	0%
Region 9	-	-	53	0%
Totals	6	6	1,067	1%

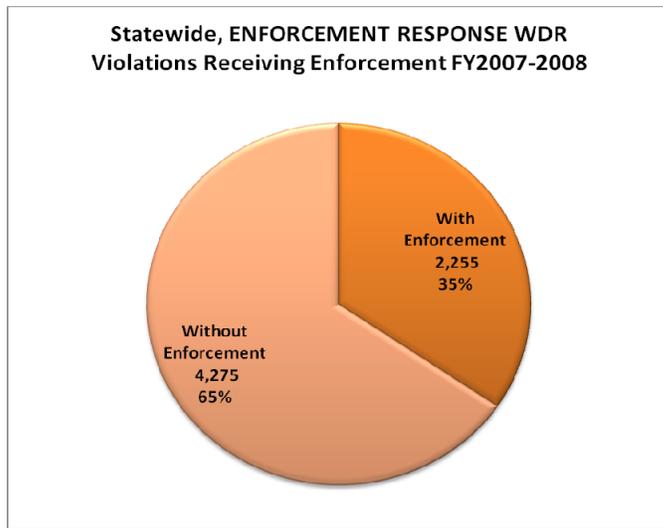
Table 26: WDR Dairies/CAFO Inspections FY 07-08

WDR CAFO/Dairies	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	-	-	1	0%
Region 2	-	-	3	0%
Region 3	-	-	2	0%
Region 4	-	-	0	
Region 5 Fresno	8	8	662	1%
Region 5 Redding	2	1	22	5%
Region 5 Sacramento	-	-	816	0%
Region 5 Total	10	9	1,500	1%
Region 6 Tahoe	-	-	0	
Region 6 Victorville	3	3	5	60%
Region 6 Total	3	3	5	60%
Region 7	-	-	0	
Region 8	-	-	0	
Region 9	1	1	4	25%
Totals	14	13	1,515	1%

Table 27: WDR All Other Facilities Inspections FY 07-08

WDR Other	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	5	5	122	4%
Region 2	2	2	116	2%
Region 3	19	18	233	8%
Region 4	2	2	223	1%
Region 5 Fresno	16	15	68	22%
Region 5 Redding	11	8	34	24%
Region 5 Sacramento	-	-	133	0%
Region 5 Total	27	23	235	10%
Region 6 Tahoe	2	2	155	1%
Region 6 Victorville	6	6	63	10%
Region 6 Total	8	8	218	4%
Region 7	7	6	56	11%
Region 8	3	2	41	5%
Region 9	-	-	210	0%
Totals	73	66	1,454	5%

Figure 16: WDR Facilities, Enforcement Response



Approximately 35% of all documented WDR violations occurring during Fiscal Year 2007-2008 received an enforcement action.

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

Table 28: WDR Municipal Waste Compliance and Enforcement Outputs FY 2007-2008

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	83	121	2	2%	17	-	0%
2	49	-	-	-	-	-	-
3	189	365	65	18%	3	1	33%
4	221	441	184	42%	-	-	-
5F	245	1,043	589	56%	240	164	68%
5R	143	61	44	72%	-	-	-
5S	271	1,496	417	28%	476	72	15%
5 Total	659	2,600	1,050	40%	716	236	33%
6A	31	28	6	21%	3	2	67%
6B	62	184	5	3%	3	1	33%
6 Total	93	212	11	5%	6	3	50%
7	230	127	41	32%	-	-	-
8	32	20	-	0%	-	-	-
9	128	188	115	61%	2	-	0%
Totals	1,684	4,074	1,468	36%	744	240	32%

Table 29: WDR Industrial Waste Compliance and Enforcement Outputs FY 2007-2008

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	145	1	-	0%	-	-	
2	14	1	-	0%	-	-	
3	211	46	13	28%	1	1	100%
4	25	1	-	0%	-	-	
5F	194	624	311	50%	163	102	63%
5R	61	27	23	85%	-	-	
5S	222	670	139	21%	323	12	4%
5 Total	477	1,321	473	36%	486	114	23%
6A	8	2	-	0%	-	-	
6B	8	5	-	0%	-	-	
6 Total	16	7	-	0%	-	-	
7	18	-	-		-	-	
8	34	-	-		-	-	
9	26	-	-		-	-	
Totals	966	1,377	486	35%	487	115	24%

Table 30: WDR Collection Systems Compliance and Enforcement Outputs

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	68	1	1	100%	-	-	
2	122	1	1	100%	-	-	
3	102	156	4	3%	2	1	50%
4	145	1	-	0%	-	-	
5F	145	2	1	50%	-	-	
5R	54	-	-		-	-	
5S	191	-	-		-	-	
5 Total	390	2	1	50%	-	-	
6A	23	9	8	89%	6	6	100%
6B	46	-	-		-	-	
6 Total	69	9	8	89%	6	6	100%
7	33	-	-		-	-	
8	85	-	-		-	-	
9	53	12	12	100%	-	-	
Totals	1,067	182	27	15%	8	7	88%

Table 31: WDR Dairies/CAFO Compliance and Enforcement Outputs

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	1	-	-		-	-	
2	3	-	-		-	-	
3	2	-	-		-	-	
4	-	-	-		-	-	
5F	662	8	6	75%	-	-	
5R	22	3	3	100%	-	-	
5S	816	-	-		-	-	
5 Total	1,500	11	9	82%	-	-	
6A	-	-	-		-	-	
6B	5	9	-	0%	-	-	
6 Total	5	9	-	0%	-	-	
7	-	-	-		-	-	
8	-	-	-		-	-	
9	4	-	-		-	-	
Totals	1,515	20	9	45%	-	-	

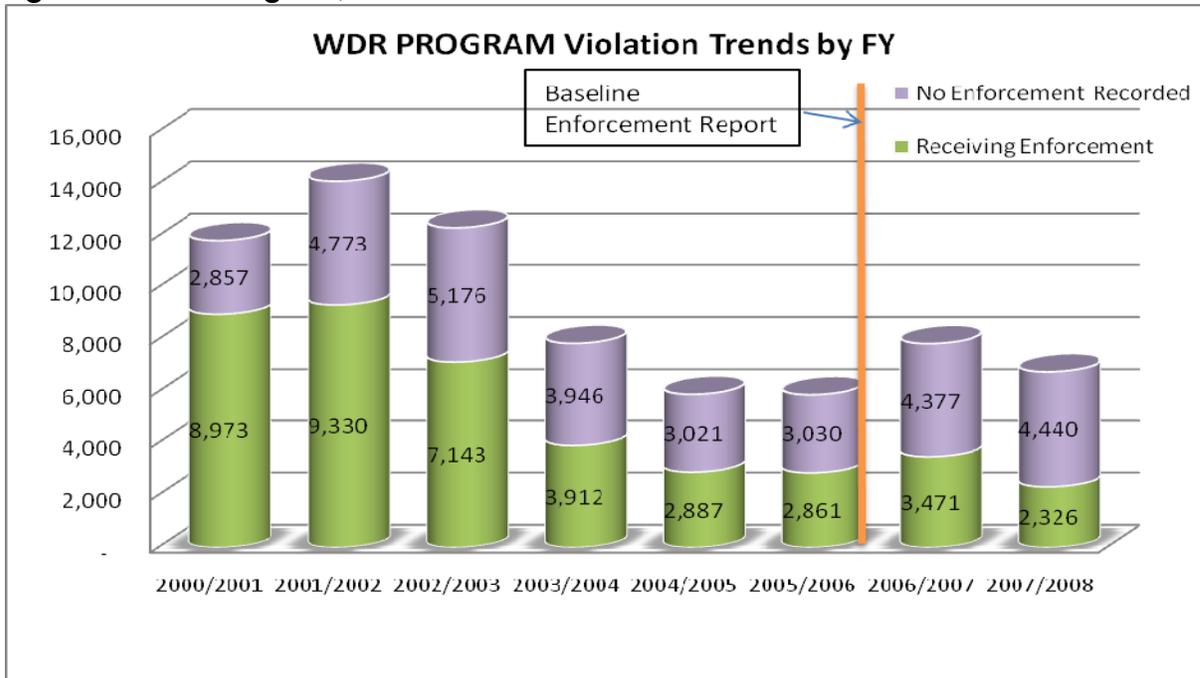
Table 32: WDR All Other Facilities Compliance and Enforcement Outputs

Regional Board	No. of Facilities	Violations			Priority Violations		
		Total Violations (including priority)	Receiving Enforcement	% of violations Receiving Enforcement	Total Priority Violations	Receiving Enforcement	% of violations Receiving Enforcement
1	122	123	69	56%	-	-	
2	116	1	1	100%	-	-	
3	233	70	39	56%	1	1	100%
4	223	83	22	27%	-	-	
5F	68	354	84	24%	67	25	37%
5R	34	7	7	100%	-	-	
5S	133	120	48	40%	65	11	17%
5 Total	235	481	139	29%	132	36	27%
6A	155	16	-	0%	-	-	
6B	63	51	6	12%	1	-	0%
6 Total	218	67	6	9%	1	-	0%
7	56	212	1	0%	2	-	0%
8	41	-	-		-	-	
9	210	22	15	68%	5	5	100%
Totals	1,454	1,059	292	28%	141	42	30%

* Data from CIWQS

Trends in the number of violations receiving and not receiving enforcement for the entire WDR program has fluctuated substantially since FY 2000-2001.

Figure 17: WDR Program, Violations Trends



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

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

Enforcement Action Outputs

Tables 33 to 37 lists the number of enforcement actions taken by the Regional Water Boards for the five categories of dischargers under the WDR program ranked from informal to more formal during FY 2007-2008.

Table 33: WDR Municipal Waste, Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter			1		5	23			1	38		11	79
Oral Communication	1		10		21	17	2						51
Notice of Violation			14	3	17	7	36		3			9	89
13267 Letter			1				3	1					5
Clean-up and Abatement Order			2	1			1						4
Time Schedule Order				1									1
Cease and Desist Order			1		3	1			3				8
Admin Civil Liability						2	5		2				9
TOTAL	1	0	29	5	46	50	47	1	9	38	0	20	246

Table 34: WDR Industrial Waste, Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter			1		4	2						1	8
Oral Communication					15	11							26
Notice of Violation			12		14	2	20						48
13267 Letter						1	1						2
Clean-up and Abatement Order					1								1
Cease and Desist Order							1						1
Admin Civil Liability	1						1						2
TOTAL	1	0	13	0	34	16	23	0	0	0	0	1	88

Table 35: WDR SSO, Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter	1												1
Oral Communication			1		1	1							3
Notice of Violation	1				1		1		6			1	10
13267 Letter			1									2	3
Admin Civil Liability	2												2
TOTAL	4	0	2	0	2	1	1	0	6	0	0	3	19

Table 36: WDR Dairies and CAFO, Enforcement Actions for Fiscal Year 2007-2008

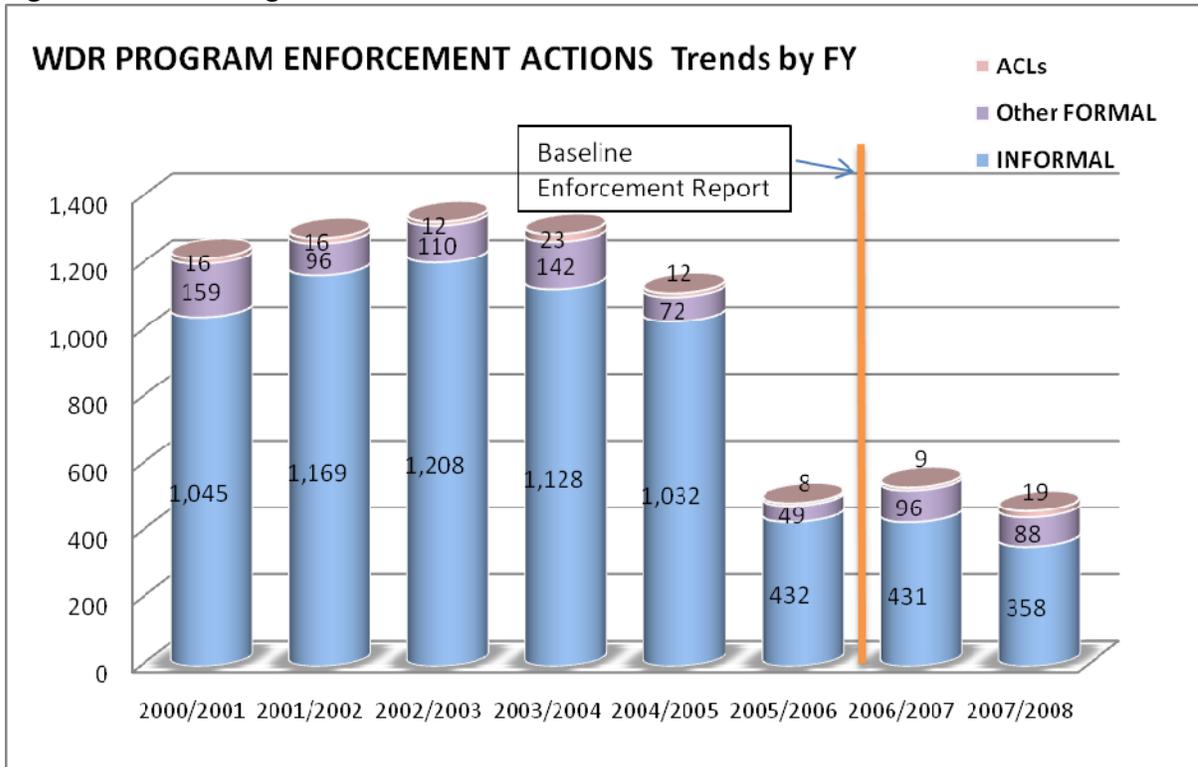
Enforcement Action	Regional Board											Total		
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9	
Notice of Violation					5	1								6
13267 Letter					45		1							46
TOTAL	0	0	0	0	50	1	1	0	0	0	0	0	0	52

Table 37: WDR All Other Facilities, Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total		
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9	
Staff Enforcement Letter	4		1			2				1				8
Oral Communication	2		1		3	1		1	1					9
Notice to Comply		1												1
Notice of Violation	3	1	1	3	7	1			1			5		22
13267 Letter			1	2		1		1	1			6		12
Clean-up and Abatement Order	1		2					1						4
Cease and Desist Order					1									1
Admin Civil Liability	2		1									3		6
TOTAL	12	2	7	5	11	5	1	2	3	1	0	14	0	63

The number of enforcement actions has fluctuated significantly since FY 2000-2001. We have seen a significant decrease in the number of informal actions documented since FY 2005-2006, although the level of formal enforcement remained at similar levels. This may be due to not recording informal actions in the new CIWQS database.

Figure 18: WDR Program, Enforcement Actions Trends



DRAFT

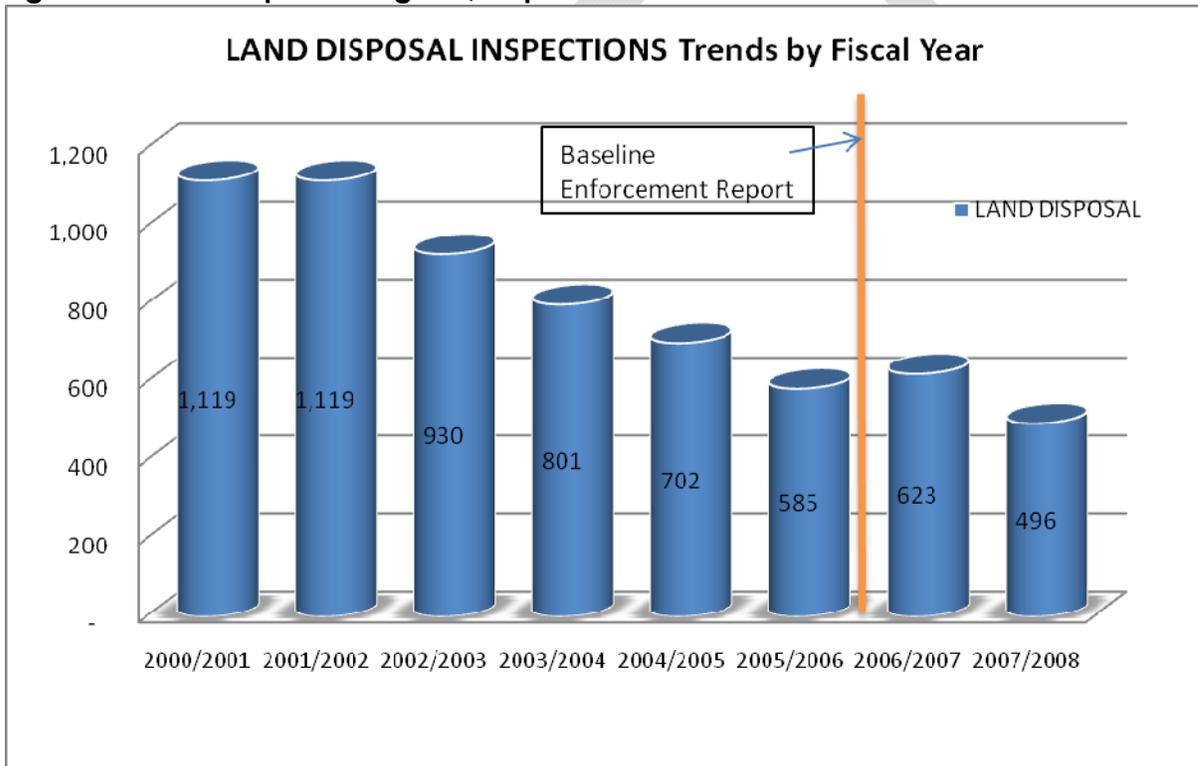
Land Disposal Program Outputs

Compliance Outputs

More than 2,000 SMRs are received annually by the Regional Water Boards to comply with the land disposal program requirements. Monitoring reports are submitted as specified in the permit requirements. For Fiscal Year 2007-2008 the CIWQS database did not track monitoring reports due, received and reviewed for any program. Therefore at this time it is not possible to produce statistics about the number of SMRs for which compliance was assessed.

Figure 19 shows the trends in the number of inspections conducted since FY 2000-2001.

Figure 19: Land Disposal Program, Inspections Trends



Inspections conducted are tracked in the CIWQS database. For the Land Disposal program, 342 facilities were inspected during FY 2007-2008. Table 38 [below](#) shows the total number of inspections conducted by each Regional Water Board.

Table 38: Land Disposal Inspections FY 07-08

Land Disposal	INSPECTIONS	FACILITIES INSPECTED	FACILITIES REGULATED	% Facilities Inspected
Region 1	-	-	34	0%
Region 2	34	19	78	24%
Region 3	54	31	60	52%
Region 4	31	24	59	41%
Region 5 Fresno	118	97	126	77%
Region 5 Redding	14	8	37	22%
Region 5 Sacramento	32	24	100	24%
Region 5 Total	164	129	263	49%
Region 6 Tahoe	9	8	14	57%
Region 6 Victorville	59	55	82	67%
Region 6 Total	68	63	96	66%
Region 7	42	35	75	47%
Region 8	99	38	62	61%
Region 9	3	3	56	5%
Totals	495	342	783	44%

* Data from CIWQS as amended by the Regional Water Boards

Trends in the number of violations receiving and not receiving enforcement for the entire WDR program has fluctuated since FY 2000-2001. The percentage of violations receiving enforcement fluctuated from 70% to 30% during this period.

Figure 20: Land Disposal, Violations Trends

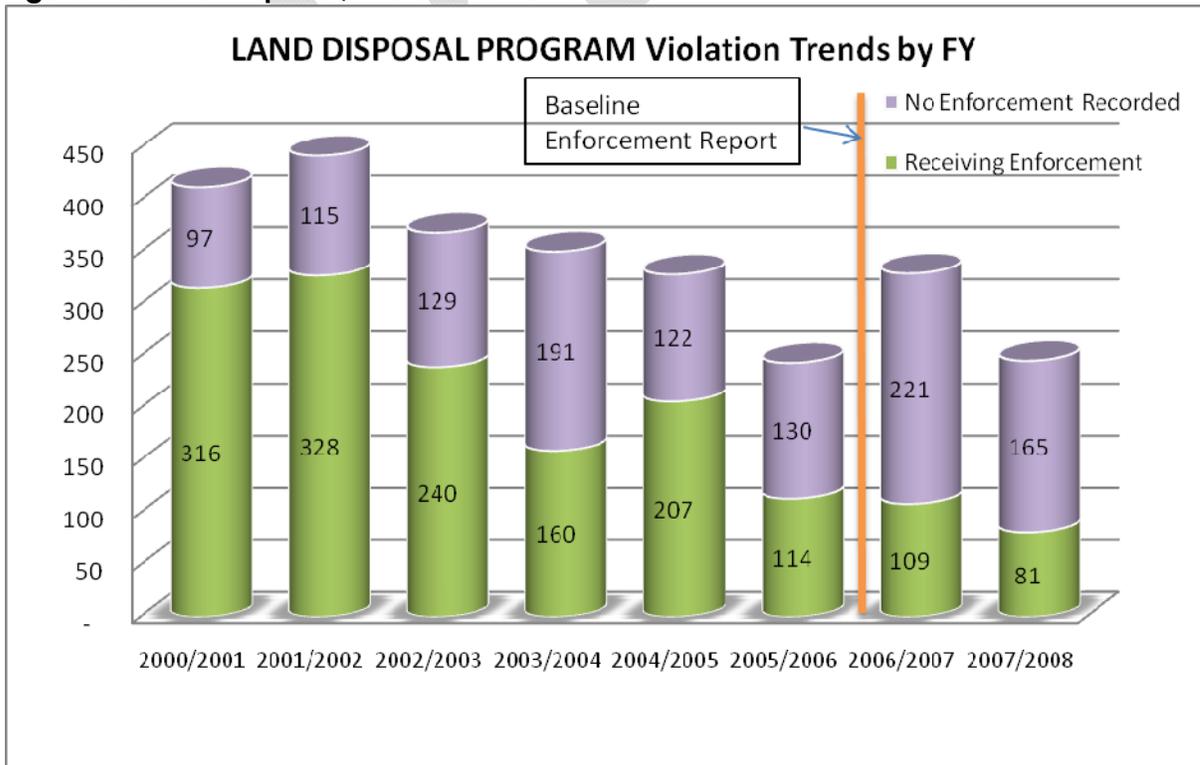


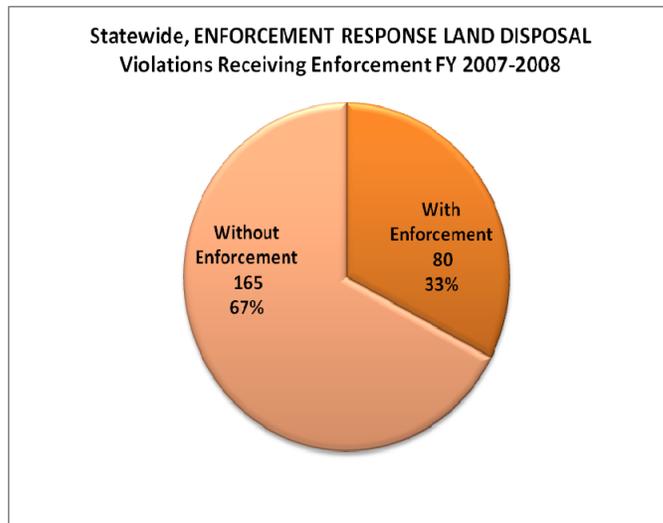
Table 39: Land Disposal Compliance and Enforcement Outputs FY 07-08

LAND DISPOSAL	No. of Facilities	Violations		
		Total Violations	Receiving Enforcement	% of Violations Receiving Enforcement
Region 1	34	-	-	
Region 2	78	-	-	
Region 3	60	2	2	100%
Region 4	59	4	4	100%
Region 5 Fresno	126	15	13	87%
Region 5 Redding	37	3	3	100%
Region 5 Sacramento	100	82	27	33%
Region 5 Total	263	100	43	43%
Region 6 Tahoe	14	9	-	0%
Region 6 Victorville	82	97	12	12%
Region 6 Total	96	106	12	11%
Region 7	75	11	1	9%
Region 8	62	16	13	81%
Region 9	56	6	5	83%
Totals	783	245	80	33%

* Data from CIWQS

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

Figure 21: Land Disposal Enforcement Response



generally stationary, long-term sites that require on-going monitoring to detect and ensure the cleanup of releases of contaminants.

Enforcement Action Outputs

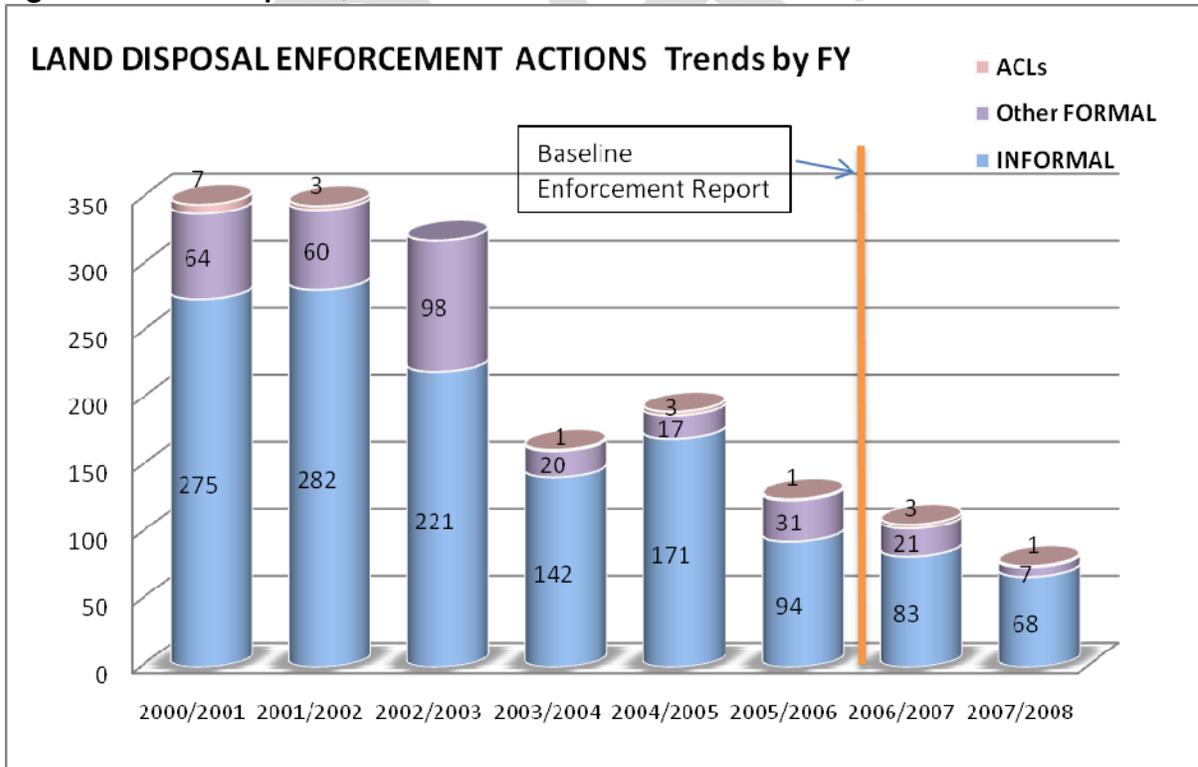
The following table lists the number of enforcement actions taken by the Regional Water Boards ranked from informal to more formal, during FY 2007-2008.

Table 40: Land Disposal Enforcement Actions for Fiscal Year 2007-2008

Enforcement Action	Regional Board											Total	
	1	2	3	4	5F	5R	5S	6A	6B	7	8		9
Staff Enforcement Letter						1			1	1	6		9
Oral Communication	1										5		6
Notice to Comply											6		6
Notice of Violation	1	1	3	3	12	1	11		7		5	3	47
13267 Letter		1				1	1					1	4
Clean-up and Abatement Order							2				1		3
Admin Civil Liability						1							1
TOTAL	2	2	3	3	12	4	14	0	8	1	23	4	76

Figure 22 shows trends in enforcement actions issued since FY 2000-2001.

Figure 22: Land Disposal, Enforcement Actions Trends



Assessment of Administrative Civil Liability

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

In Fiscal Year 2007-2008, the Regional Water Boards assessed more than \$19 million in liabilities. In some situations, the Regional Water Boards accepted a Supplemental Environmental Project (SEP) in lieu of monetary payment of some or all of the penalty. SEPs are for environmentally beneficial projects, either for projects the discharger would not otherwise have had to complete, or in some limited cases, for projects designed to return the discharger to compliance. Allowance for these projects is at the discretion of the Regional Water Board. There is a large variation from region-to-region in how these liabilities are allocated between penalties paid and SEPs allowed. In early 2009, the State Water Board adopted changes to limit the amount of a penalty that can be deferred to a SEP.

The Regional Water Boards record the amount for the SEP as part of the total amount assessed to the dischargers. Table 41 shows the breakdown by Regional Water Board. SEPs and compliance projects are addressed under "Project." The pending amounts are outstanding amounts that have not been recorded as paid, or projects that are not yet complete.

Table 41: Liability Amounts Assessed by Regional Water Boards FY 2007-2008

RB	Number of ACLs	Total Amount Assessed	Liability Amount	Liability Pending	Project Amount	Project Pending	Total Pending
1	19	\$1,405,000	\$319,000	\$67,500	\$1,086,000	\$747,000	\$814,500
2	6	\$613,000	\$133,500	\$124,500	\$479,500	\$459,500	\$584,000
3	6	\$435,040	\$341,035	\$296,035	\$94,005	\$0	\$296,035
4	4	\$681,190	\$445,595	\$115,000	\$235,595	\$0	\$115,000
5F	0	\$0		\$0	\$0	\$0	\$0
5R	8	\$113,500	\$113,500	\$0	\$0	\$0	\$0
5S	34	\$7,389,000	\$2,865,000	\$1,280,000	\$4,524,000	\$3,584,000	\$4,864,000
6A	0	\$0		\$0	\$0	\$0	\$0
6B	2	\$5,050,000	\$500,000	\$200,000	\$4,550,000	\$3,790,000	\$3,990,000
7	3	\$413,750	\$194,875	\$19,000	\$218,875	\$218,875	\$237,875
8	16	\$1,632,180	\$1,092,317	\$276,128	\$539,864	\$0	\$276,128
9	8	\$1,805,661	\$1,805,661	\$759,161	\$0	\$0	\$759,161
Totals	106	\$19,538,321	\$7,810,483	\$3,137,324	\$11,727,839	\$8,799,375	\$11,936,699

*Data from CIWQS

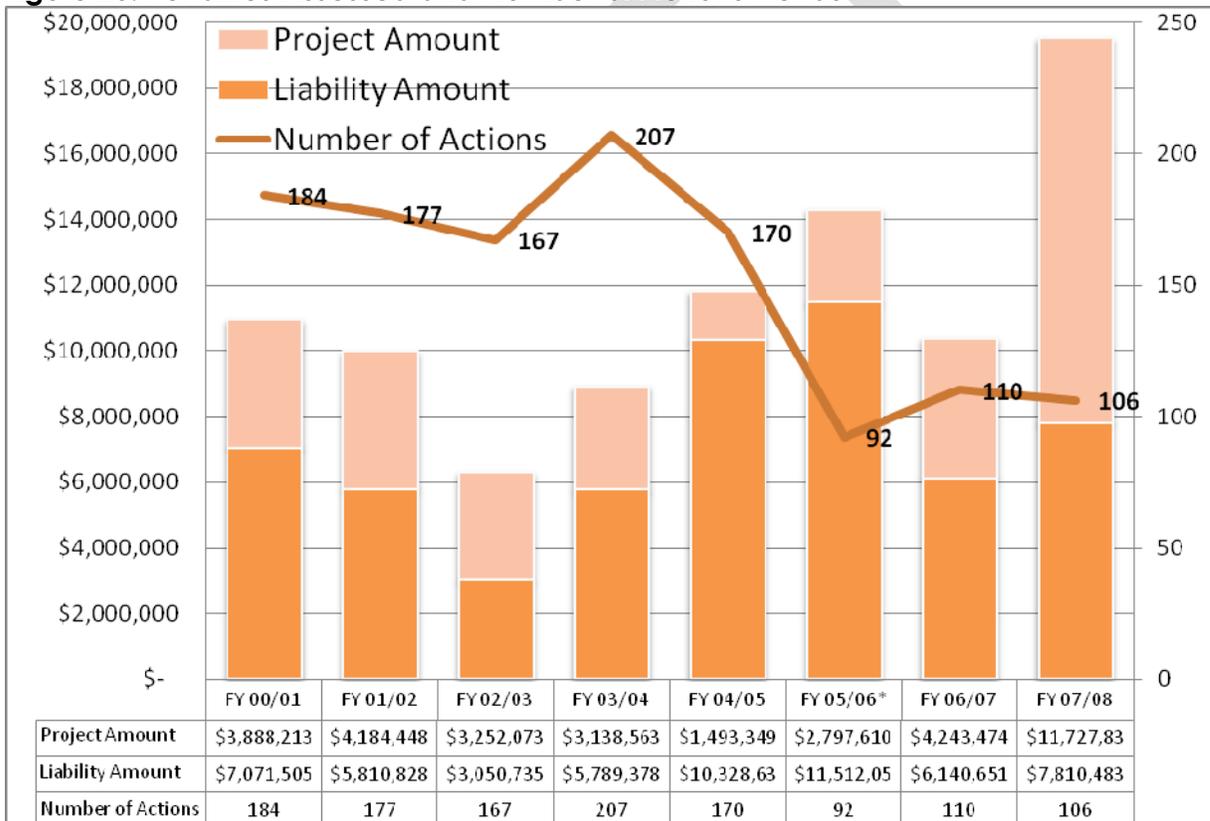
Information on penalties assessed and collected is available at the Water Boards CIWQS public reports site at:

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

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

Trends in liabilities and projects assessed and the number of ACL actions issued since FY 2000-2001 are presented in Figure 23.

Figure 23: Penalties Assessed and Number of Actions Trends



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

Section 5

Compliance and Enforcement Outcomes

The mission of compliance and enforcement programs is to ensure that compliance with laws and regulations is achieved and maintained over time. Measuring the outcome, or effect, of our activities is the most difficult part of performance measurement. A group of enforcement staff from all agencies within CalEPA met during 2007 to discuss the most effective and consistent way of measuring expected results from enforcement programs. There was consensus among the participants that one of the most important elements is to measure compliance rates. Compliance rates assist managers to describe noncompliance problems in magnitude, frequency and duration and to evaluate the results of a program's compliance and enforcement strategies. Other recommended performance measures to assess the outcome of compliance and enforcement programs included measures to address the deterrent effects of enforcement recidivism, and environmental and economic benefits.

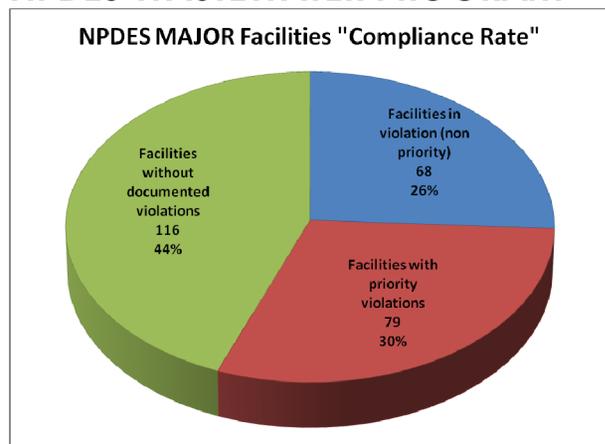
We define "compliance rate" as the number of facilities with one or more violations during the reporting period divided by the total number of facilities for which compliance has been assessed.

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

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

Compliance rates vary significantly among regions and programs. This variation may be in response to many factors including compliance efforts initiated by the discharges activities, as well as, compliance assistance provided by Regional Water Board staff, the level of enforcement resources dedicated to each program in each region, the number of inspections conducted and the number of SMRs reviewed.

NPDES WASTEWATER PROGRAM

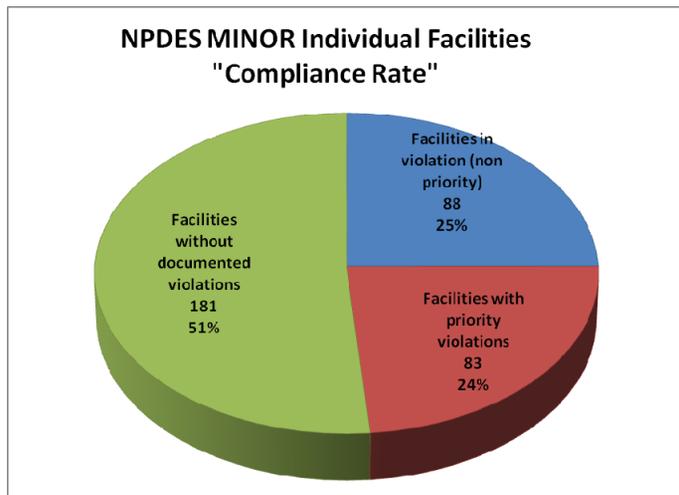


The NPDES Wastewater program regulates approximately 2,000 diverse facilities discharging to surface waters. This count includes both major individual dischargers with a high threat to water quality and minor dischargers enrolled under a general permit. Compliance rates are provided for each one of the discharger groups.

For the NPDES Wastewater program, we assume that every facility and permit has received some degree of compliance assessment either by a review of the monitoring reports or through inspections. This is particularly true for major and minor individual permits.

Table 42: Compliance Rates, NPDES Wastewater Major FY 2007-2008

NPDES WASTEWATER MAJOR FACILITIES COMPLIANCE RATE FY 2007- 2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	14	13	93%	217	7	50%	60	9	2	2	16.7
2	56	31	55%	130	18	32%	48	28	3	0	4.2
3	22	16	73%	219	6	27%	52	12	3	1	13.7
4	45	30	67%	268	12	27%	91	20	5	5	8.9
5F	7	4	57%	16	1	14%	2	4	0	0	4.0
5R	13	5	38%	18	2	15%	7	5	0	0	3.6
5S	38	30	79%	505	23	61%	226	17	7	6	16.8
5 Total	58	39	67%	539	26	45%	235	26	7	6	13.8
6A	1	1	100%	3	0	0%	0	1	0	0	3.0
6B	2	1	50%	7	1	50%	6	1	0	0	7.0
6 Total	3	2	67%	10	1	33%	6	2	0	0	5.0
7	9	8	89%	159	5	56%	101	5	2	1	19.9
8	19	3	16%	55	1	5%	3	2	0	1	18.3
9	37	5	14%	240	3	8%	49	3	0	2	48.0
Total	263	147	56%	1,837	79	30%	645	107	22	18	12.5

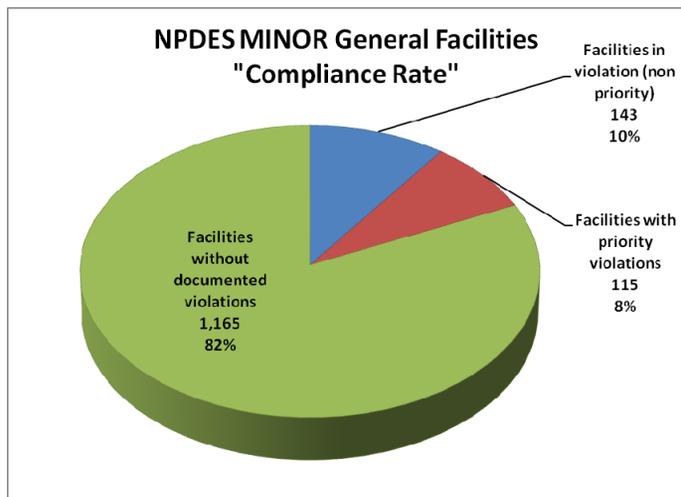


Minor dischargers can be regulated under individual Waste Discharge Requirements or enrolled under a general Waste Discharge Requirement permit. Compliance is assessed with self monitoring reports and with inspections.

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

Table 43: Compliance Rates, NPDES Wastewater Minor Individual FY 2007-2008

NPDES WASTEWATER MINOR INDIVIDUAL PERMITS COMPLIANCE RATE FY 2007- 2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	32	15	47%	137	9	28%	79	11	3	1	9.1
2	18	6	33%	31	3	17%	10	5	1	0	5.2
3	20	12	60%	52	3	15%	12	10	2	0	4.3
4	78	38	49%	364	25	32%	158	27	7	4	9.6
5F	25	17	68%	206	10	40%	142	13	2	2	12.1
5R	54	17	31%	47	1	2%	1	16	1	0	2.8
5S	58	40	69%	1582	21	36%	874	28	4	8	39.6
5 Total	137	74	54%	1,835	32	23%	1017	57	7	10	24.8
6A	4	4	100%	6	3	75%	3	4	0	0	1.5
6B	5	4	80%	26	1	20%	3	3	1	0	6.5
6 Total	9	8	89%	32	4	44%	6	7	1	0	4.0
7	16	12	75%	175	5	31%	66	6	4	2	14.6
8	18	4	22%	22	0	0%	0	3	1	0	5.5
9	24	2	8%	93	2	8%	90	1	0	1	46.5
Total	352	171	49%	2,741	83	24%	1,438	127	26	18	16.0

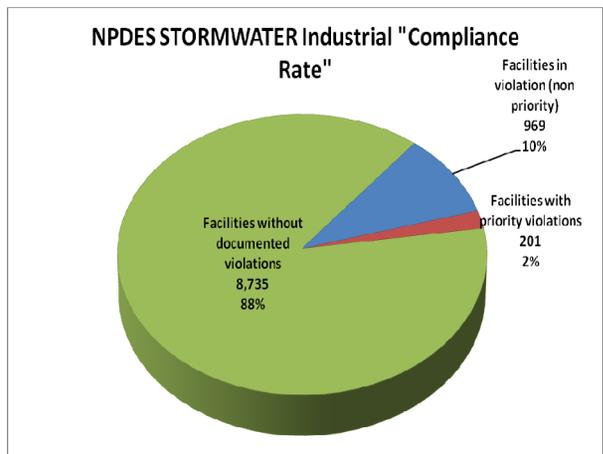


Dischargers enrolled under a general NPDES permit are a larger and more heterogeneous group. The threat to water quality for these groups of dischargers is lower and compliance assurance activities such as inspections and monitoring reports are less frequent. Inspections are conducted once every ~~four~~ five years and the reporting frequency may be reduced to quarterly or annual reporting. Because of this, annual compliance rates are expected to be better than with other groups. Despite this fact, the data shows clear inconsistencies in data entry and violation documentation across the Regional Boards. For example, only Region 3 and Region 4 found more than 15% of facilities in violation.

Table 44: Compliance Rates, NPDES Wastewater Minor General FY 2007-2008

NPDES WASTEWATER MINOR GENERAL PERMITS COMPLIANCE RATE FY 2007- 2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	21	1	5%	4	0	0%	0	1	0	0	4.0
2	199	17	9%	50	5	3%	15	16	1	0	2.9
3	70	19	27%	48	4	6%	14	19	0	0	2.5
4	481	188	39%	1515	95	20%	907	160	15	13	8.1
5F	17	2	12%	59	1	6%	44	1	0	1	29.5
5R	17	0	N/AN/A	00	00	N/AN/A	0	0	0	0	
5S	132	8	6%	14	4	3%	4	8	0	0	1.8
5 Total	166	10	6%	73	5	3%	48	9	0	1	7.3
6A	9	1	11%	2	0	0%	0	1	0	0	2.0
6B	7	0	0%N/A	0	0	0%N/A	0	0	0	0	
6 Total	16	1	6%	2	0	0%	0	1	0	0	2.0
7	38	1	3%	7	1	3%	5	1	0	0	7.0
8	361	15	4%	42	0	0%	0	14	0	1	2.8
9	71	6	8%	44	5	7%	24	4	2	0	7.3
Total	1,423	258	18%	1,785	115	8%	1,013	225	18	15	6.9

STORMWATER PROGRAM

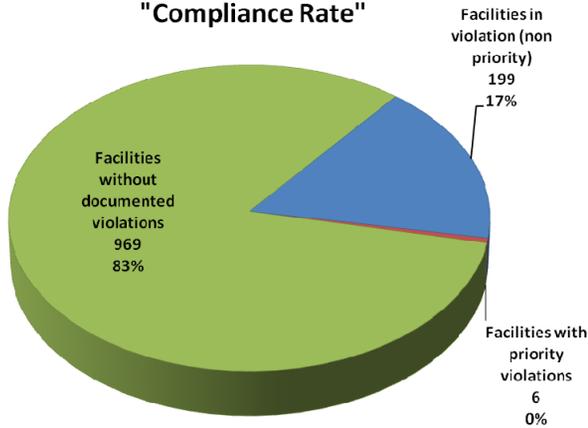


Compliance for dischargers enrolled under the industrial stormwater permit is assessed by reviewing monitoring reports and with site-specific inspections. For purposes of calculating compliance rates for industrial stormwater facilities we assume that every industrial facility has received some level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

Table 45: Compliance Rates, NPDES Stormwater Industrial FY 2007-2008

STORMWATER INDUSTRIAL COMPLIANCE RATES FY 2007- 2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	355	84	24%	96	1	0%	1	84	0	0	1.1
2	1425	276	19%	287	2	0%	2	276	0	0	1.0
3	410	51	12%	53	0	0%	0	51	0	0	1.0
4	2989	44	1%	99	0	0%	0	44	0	0	2.3
5F	576	11	2%	15	8	1%	9	11	0	0	1.4
5R	197	50	25%	54	0	0%	0	50	0	0	1.1
5S	1197	271	23%	283	0	0%	0	271	0	0	1.0
5 Total	1970	332	17%	352	8	0%	9	332	0	0	1.1
6A	62	5	8%	8	3	5%	4	5	0	0	1.6
6B	177	2	1%	2	0	0%	0	2	0	0	1.0
6 Total	239	7	3%	10	3	1%	4	7	0	0	1.4
7	167	41	25%	41	0	0%	0	41	0	0	1.0
8	1595	304	19%	371	186	12%	234	303	1	0	1.2
9	755	31	4%	41	1	0%	1	31	0	0	1.3
Total	9,905	1170	12%	1,350	201	2%	251	1169	1	0	1.2

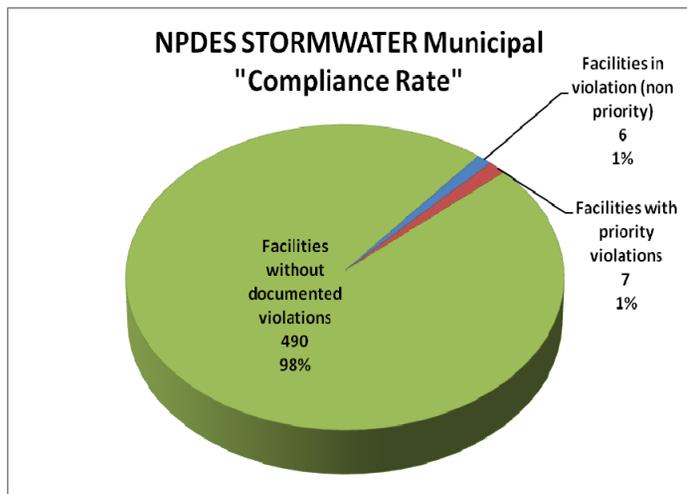
**NPDES STORMWATER Construction
"Compliance Rate"**



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

Table 46: Compliance Rates, NPDES Stormwater Construction FY 2007-2008

STORMWATER CONSTRUCTION COMPLIANCE RATES FY 2007- 2008											
Region	Number of Facilities Inspected*	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	99	4	4%	4	0	0%	0	4	0	0	1.0
2	5	5	100%	8	1	20%	1	5	0	0	1.6
3	18	4	22%	7	0	0%	0	4	0	0	1.8
4	43	27	63%	80	0	0%	0	26	1	0	3.0
5F	19	3	16%	3	0	0%	0	3	0	0	1.0
5R	93	26	28%	31	0	0%	0	26	0	0	1.2
5S	142	74	52%	147	0	0%	0	73	1	0	2.0
5 Total	254	103	41%	181	0	0%	0	102	1	0	1.8
6A	12	10	83%	11	0	0%	0	10	0	0	1.1
6B	7	4	57%	20	3	43%	16	4	0	0	5.0
6 Total	19	14	74%	31	3	16%	16	14	0	0	2.2
7	44	0	0%	0	0	0%	0	0	0	0	
8	663	35	5%	49	0	0%	0	35	0	0	1.4
9	29	13	45%	73	2	7%	49	12	0	1	5.6
Total	1,174	205	17%	433	6	1%	66	202	2	1	2.1

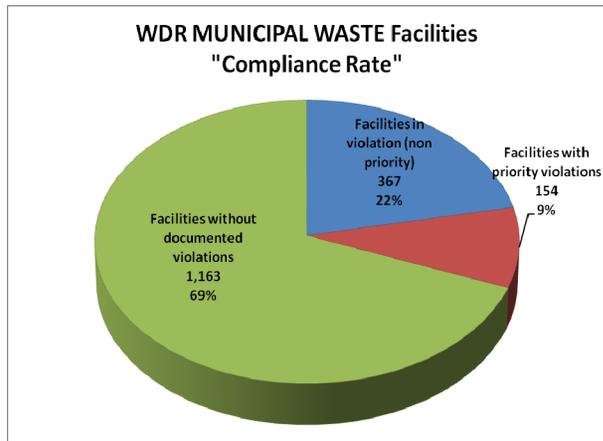


NPDES Municipal Storm Sewer System (Stormwater Municipal) permits compliance assessment relies on inspections and audits that evaluates the activities conducted to comply with the permit requirements. The permittees must track and assess its stormwater management program, evaluate its compliance with permit conditions and provide this information in an annual report. To calculate compliance rates with Stormwater Municipal we assumed that every permittee received some level of compliance assessment.

Table 48: Compliance Rates, NPDES Stormwater Municipal FY 2007-2008

STORMWATER MUNICIPAL COMPLIANCE RATES FY 2007-2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	20	1	5%	1	0	0%	0	1	0	0	1.0
2	102	0	0%	0	0	0%	0	0	0	0	-
3	18	3	17%	4	0	0%	0	3	0	0	1.3
4	100	0	0%	0	0	0%	0	0	0	0	-
5F	20	0	0%	0	0	0%	0	0	0	0	-
5R	6	0	0%	0	0	0%	0	0	0	0	-
5S	60	1	2%	1	0	0%	0	1	0	0	1.0
5 Total	86	1	1%	1	0	0%	0	1	0	0	1.0
6A	11	1	9%	1	1	9%	1	1	0	0	1.0
6B	5	0	0%	0	0	0%	0	0	0	0	-
6 Total	16	1	6%	1	1	6%	1	1	0	0	1.0
7	14	0	0%	0	0	0%	0	0	0	0	-
8	72	1	1%	1	1	1%	1	1	0	0	1.0
9	75	6	8%	36	5	7%	30	5	1	0	6.0
Total	503	13	3%	44	7	1%	32	12	1	0	3.4

WDR PROGRAM

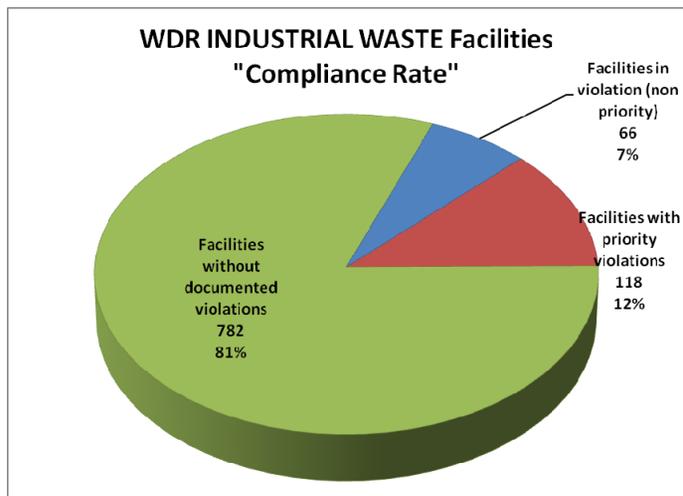


Compliance rates for the WDR program vary dramatically among Regional Water Boards, from no facilities reported in violation in Region 2 (San Francisco Bay Regional Board) to 61% of the facilities in violation in Region 5S.

The compliance rate was calculated assuming that each facility received some level of oversight. Overall, 31% of the 1,684 municipal waste facilities in the program had one or more violations during the reporting period. Thirty three of those facilities had chronic compliance problems with more than 25 violations each recorded in the reporting period. The priority flag for violations is used inconsistently by the Water Boards.

Table 47: Compliance Rates, WDR Municipal Waste FY 2007-2008

WDR PROGRAM MUNICIPAL WASTE COMPLIANCE RATES FY 2007- 2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	83	18	22%	121	3	4%	17	14	4	0	6.7
2	49	0	0%	0	0	0%	0	0	0	0	
3	189	50	26%	365	3	2%	3	37	11	2	7.3
4	221	80	36%	441	0	0%	0	72	7	1	5.5
5F	245	62	25%	1,043	32	13%	240	36	12	14	16.8
5R	143	17	12%	61	0	0%	0	16	1	0	3.6
5S	271	165	61%	1,496	110	41%	476	112	40	13	9.1
5 Total	659	244	37%	2,600	142	22%	716	164	53	27	10.7
6A	31	13	42%	28	2	6%	3	13	0	0	2.2
6B	62	40	65%	184	2	3%	3	36	3	1	4.6
6 Total	93	53	57%	212	4	4%	6	49	3	1	4.0
7	230	45	20%	127	0	0%	0	44	0	1	2.8
8	32	3	9%	20	0	0%	0	2	1	0	6.7
9	128	28	22%	188	2	2%	2	24	3	1	6.7
Total	1,684	521	31%	4,074	154	9%	744	406	82	33	7.8



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

Compliance rates for regions 7, 8 and 9, with no facilities with one or more violations in the period, may not be completely accurate and it may be due to incomplete data entry and documentation of violations in CIWQS.

Table 48: Compliance Rates, WDR Industrial Waste FY 2007-2008

WDR PROGRAM INDUSTRIAL WASTE COMPLIANCE RATES FY 2007- 2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	145	1	1%	1	0	0%	0	1	0	0	1.0
2	14	1	7%	1	0	0%	0	1	0	0	1.0
3	211	13	6%	46	1	0%	1	13	0	0	3.5
4	25	1	4%	1	0	0%	0	1	0	0	1.0
5F	194	47	24%	624	25	13%	163	24	14	9	13.3
5R	61	9	15%	27	0	0%	0	8	1	0	3.0
5S	222	107	48%	670	92	41%	323	89	11	7	6.3
5 Total	477	163	34%	1,321	117	25%	486	121	26	16	8.1
6A	8	2	25%	2	0	0%	0	2	0	0	1.0
6B	8	3	38%	5	0	0%	0	3	0	0	1.7
6 Total	16	5	31%	7	0	0%	0	5	0	0	1.4
7	18	0	N/A0%	00	00	N/A0%	0	0	0	0	
8	34	0	N/A0%	00	00	N/A0%	0	0	0	0	
9	26	0	N/A0%	00	00	N/A0%	0	0	0	0	
Total	966	184	19%	1,377	118	12%	487	142	26	16	7.5

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

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

Compliance rate information for collection systems ~~may is~~ not ~~be~~ reliable at this point and the program is working ~~in~~on developing procedures for classifying sewage spill violations in CIWQS. Not all sewage spills may be classified and documented in a violation record and many of the documented violations in the program are related to failure to meet their reporting requirements and no spill certification requirements. The following table displays the current information available in the CIWQS database. Enforcement for sewage spills is also discussed at the end of this report.

Table 49: Compliance Rates, WDR SSO FY 2007-2008

WDR PROGRAM SSO COMPLIANCE RATES FY 2007-2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	68	1	1%	1	0	0%	0	1	0	0	1.0
2	122	1	1%	1	0	0%	0	1	0	0	1.0
3	102	41	40%	156	2	2%	2	39	2	0	3.8
4	145	1	1%	1	0	0%	0	1	0	0	1.0
5	390	2	1%	2	0	0%	0	2	0	0	1.0
6	69	6	9%	9	4	6%	6	6	0	0	1.5
7	33	0	N/A0%	00	00	N/A0%	0	0	0	0	
8	85	0	N/A0%	00	00	N/A0%	0	0	0	0	
9	53	1	2%	12	0	0%	0	0	1	0	12.0
Total	1,067	53	5%	182	6	1%	8	50	3	0	3.4

Reporting compliance rates for concentrated animal feeding operations and for dairies using information available in our CIWQS database represent several challenges due to the inconsistent use of the information system as it is reflected in the low number of violations and the low number of inspections documented (see Table 26).

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

The great majority of facilities are concentrated in the Central Valley Regional Water Board (region 5).

Table 50: Compliance Rates, WDR Dairies and CAFO FY 2007-2008

WDR PROGRAM DAIRY AND CAFO COMPLIANCE RATES FY 2007-2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	1	0	N/A0%	00	00	N/A0%	0	0	0	0	
2	3	0	N/A0%	00	00	N/A0%	0	0	0	0	
3	2	0	N/A0%	00	00	N/A0%	0	0	0	0	
4	0	0	N/A-	00	00	N/A-	0	0	0	0	
5F	662	7	1%	8	0	0%	0	7	0	0	1.1
5R	22	3	14%	3	0	0%	0	3	0	0	1.0
5S	816	0	N/A0%	00	00	N/A0%	0	0	0	0	
5 Total	1,500	10	1%	11	0	0%	0	10	0	0	1.1
6A	0	0	N/A-	00	00	N/A-	0	0	0	0	
6B	5	5	100%	9	0	0%	0	5	0	0	1.8
6 Total	5	5	100%	9	0	0%	0	5	0	0	1.8
7	0	0	N/AN/A	00	00	N/AN/A	0	0	0	0	
8	0	0	N/A	00	00	N/A	0	0	0	0	
9	4	0	N/A0%	00	00	N/A0%	0	0	0	0	
Total	1,515	15	1%	20	0	0%	0	15	0	0	1.3

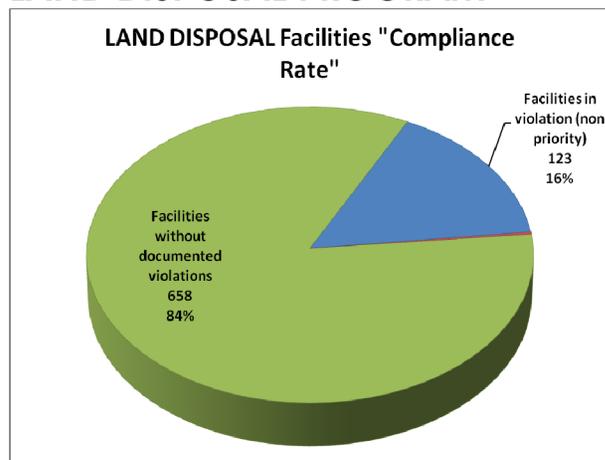
Facilities in this category include, among others, timber harvest facilities, recycled water use and any other category. The low non-compliance rate of only 7% compared to the other categories may be explained because of the low percentage of this facilities being inspected and inconsistencies in data entry and violation documentation.

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

Table 51: Compliance Rates, WDR All Other Facilities FY 2007-2008

WDR PROGRAM ALL OTHER FACILITIES COMPLIANCE RATES FY 2007-2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	122	7	6%	123	0	0%	0	5	1	1	17.6
2	116	1	1%	1	0	0%	0	1	0	0	1.0
3	233	11	5%	70	1	0%	1	9	1	1	6.4
4	223	23	10%	83	0	0%	0	21	2	0	3.6
5F	68	7	10%	354	4	6%	67	6	0	1	50.6
5R	34	5	15%	7	0	0%	0	5	0	0	1.4
5S	133	24	18%	120	24	18%	65	22	1	1	5.0
5 Total	235	36	15%	481	28	12%	132	33	1	2	13.4
6A	155	7	5%	16	0	0%	0	7	0	0	2.3
6B	63	16	25%	51	1	2%	1	15	1	0	3.2
6 Total	218	23	11%	67	1	0%	1	22	1	0	2.9
7	56	4	7%	212	1	2%	2	1	1	2	53.0
8	41	0	N/A0%	00	00	N/A0%	0	0	0	0	
9	210	4	2%	22	2	1%	5	3	1	0	5.5
Total	1,454	109	7%	1,059	33	2%	141	95	8	6	9.7

LAND DISPOSAL PROGRAM



Compliance rates in this program vary significantly among Regional Water Boards. 125 facilities under the land disposal program were identified as having one or more violations for Fiscal Year 2007-08 in the database. This represents a noncompliance rate of 16%.

Similar to the NPDES Wastewater program, the compliance rate was calculated assuming that each facility received some level of oversight. The inspection rate for this program is 44%.

Table 52: Compliance Rates, Land Disposal FY 2007-2008

LAND DISPOSAL PROGRAM COMPLIANCE RATES FY 2007-2008											
Region	Number of Facilities	Facilities with one or more violations in the period	Percentage of Facilities in Violation	Total Violations	Total Facilities With Priority Violations	Percentage of Facilities with priority violations	Total Priority Violations	# of Facilities with 1-10 violations	# of Facilities with 11-25 violations	# of Facilities with >25 violations	Average # of Violations per Facility In violation
1	34	0	N/A0%	00	00	N/A0%	0	0	0	0	
2	78	0	N/A0%	00	00	N/A0%	0	0	0	0	
3	60	2	3%	2	0	0%	0	2	0	0	1.0
4	59	2	3%	4	0	0%	0	2	0	0	2.0
5F	126	8	6%	15	1	1%	1	8	0	0	1.9
5R	37	3	8%	3	0	0%	0	3	0	0	1.0
5S	100	45	45%	82	0	0%	0	44	1	0	1.8
5 Total	263	56	21%	100	1	0%	1	55	1	0	1.8
6A	14	6	43%	9	0	0%	0	6	0	0	1.5
6B	82	36	44%	97	1	1%	3	36	0	0	2.7
6 Total	96	42	44%	106	1	1%	3	42	0	0	2.5
7	75	8	11%	11	0	0%	0	8	0	0	1.4
8	62	11	18%	16	0	0%	0	11	0	0	1.5
9	56	4	7%	6	0	0%	0	4	0	0	1.5
Total	783	125	16%	245	2	0%	4	124	1	0	2.0

Section 7

Update on Recommendations for Improvements in Water Boards' Enforcement Programs

After reviewing the summary statistics in this report and recommendations received about the Water Boards' enforcement activities through public forums, the State Water Board's Office of Enforcement recommended the actions below for core regulatory enforcement program improvements in 2006/2007. These actions 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.

Below is a status of actions taken to evaluate next steps to implement the recommendation identified in the FY 2006-2007 *Baseline Enforcement Report*.

1. Create Procedural Consistency in Regional Water Board Enforcement Proceedings

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

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

Status: The completion of draft documents by OE and OCC was expected by 3/01/09. The Regional Water Board Assistant Executive Officers will be requested to review and provide comments. The procedural templates for hearings and other matters are expected to be in use by April 2009

2. Prioritize Enforcement Actions to Address the Most Serious Threats to Water Quality

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

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

Status: OE is currently working with the Regional Water Boards to establish regular enforcement prioritization meetings. The frequency of these meeting varies by region. The current draft of the *Water Quality Enforcement Policy*, which was the subject of a staff workshop on January 16, 2009, contained a comprehensive section on enforcement prioritization.

3. Enhance Inspection and Enforcement Training

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

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

Status: The Water Boards' Training Academy completed the training needs assessment in January 2009. OE is working with Cal/EPA Training Committee and Water Board Training Academy on developing minimum training requirements.

4. Increased Field Presence of Water Board Staff

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

5. Evaluate Opportunities for Citizen Enforcement of the Water Code

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

Status: OE has collected US EPA Region 9 information regarding citizen suit activities. Once the information is evaluated, OE will meet with stakeholders regarding the need for citizen suit enforcement of Water Code.

6. Evaluate Establishing Minimum Penalties for Water Code Violations

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

Status: Staff met with stakeholders to discuss the concept.

7. Create a Dedicated Enforcement Staff and Budget

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

Status: The San Francisco Bay Regional Water Board created a dedicated enforcement unit during Fiscal Year 2007-2008. All Regional Boards have now a dedicated enforcement unit. No action has yet been taken on time keeping issues.

8. Increase the Use of the Attorney General's Office, District Attorneys, and City Attorneys in Enforcement Actions

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

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

Status: [The Water Quality Improvement Initiative](#) contains provisions for increased use of outside prosecutors in support of water quality enforcement actions. In addition, OE and the Los Angeles Regional Water Board initiated a three-year pilot project to develop staff water quality enforcement expertise within the Attorney General's Office. The pilot project's results should be transferable statewide.

9. Reduce the Backlog of Enforcement Cases by Targeting MMP-Related Violations for Enforcement Priority

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

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

Status: The MMP Enforcement Backlog was launched in July 2008. The initiative is ongoing, however, as of December 31, 2008, more than 70% of the backlog is being addressed statewide.

10. Evaluate Updating the Statutory Penalty Limits to Address Inflation

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

Status: Draft legislation was prepared and submitted as a 2008 addition to the Water Boards' Water Quality Improvement Initiative.

11. Develop and Implement Plans to Compel Participation in Key Water Board Regulatory Programs

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

Status: A notice letter was prepared and sent regarding new requirements for facilities regulated under [AB 258](#) (Nurdles) for use by the State Water Board Division of Water Quality (DWQ).

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

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

Status: ~~Recommendations are on hold after~~ The California Water Code requires that any person discharging or proposing to discharge waste that could affect the quality of the waters of the state, file a report of the discharge with the appropriate Regional Water Board. While great improvements have been made in the tracking of discharges covered by established regulatory programs, most information, including enforcement information, is not available for unaddressed discharges. Unaddressed discharges can be associated with such diverse activities as livestock grazing, winery operations, and drill cutting disposal. Appendix 5 contains a chart listing the existing categories and types of waivers that are used to address discharges that are not regulated through the core regulatory programs. A stakeholder meeting was held in July 2008 to discuss tracking and reporting. Stakeholders seek resolution by as well as expanding regulatory programs to address these types of ~~misconduct~~ discharges. The Water Boards should track and assess the regulatory and enforcement approaches applied to unaddressed discharges and expand the next Annual Enforcement Report to include a discussion of the regulatory and enforcement oversight used by the Regional Water Boards and make recommendations.

13. Encourage Flexibility in the Allocation of Resources to Target Priority Needs

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

Status: During FY 2007-2008, the Water Boards directed that enforcement resources be focused on addressing the backlog of MMP violations. This successful deployment of resources to target a specific priority will serve as a model for future initiatives. In addition to enforcement staff assignment, staff from the Division of Water Quality (DWQ) and OIMA were also redeployed to support this initiative statewide.

Section 8

Recommendations for Improvements in Water Board Enforcement Programs for FY 2008-2009

1. Consolidate Legal Representation of Regional Enforcement Teams in the Office of Enforcement

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

2. Enhance State Water Board Assistance to Enforcement Staff in Determining Economic Benefit from Water Quality Violations

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

3. Target and Address Data Issues that Adversely Impact Effective Reporting of Enforcement Outputs and Outcomes

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

4. Evaluate the Development of Criminal Investigation Capability to Address Water Quality Violations

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

5. Create an Auditing Function to Investigate and Prosecute Fraudulent Use of Grant Funds or UST Cleanup Funds

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

6. Track the Notices of Intent to Sue, Filed Under the Clean Water Act With the Regional Water Boards, and Their Disposition

Each Regional Water Board is currently responsible for reviewing and responding to notices of Intent to Sue filed by citizens under the Clean Water Act. This recommendation would require that copies of all such notices be provided by the Regional Water Boards to the Office of Enforcement. The Office of Enforcement will maintain a listing of all notices filed with the Water Boards statewide and will track their disposition. This will assist the Office in evaluating the effect of the

citizen suit provisions as well as the Regional Water Boards responsiveness to the notices.

7. All Enforcement Related Information Must be Documented by the Water Boards in the CIWQS Database.

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

8. Enforcement Actions to Assess Monetary Penalties Should be Accompanied by Actions to Return Dischargers to Compliance for Outstanding or Continuing Violations.

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

9. Approaches to Address Chronic Poor Operation and Maintenance at Wastewater Treatment Plants Serving Small Communities Should be Developed and Implemented.

All wastewater treatment plants must meet minimum operation and maintenance criteria to achieve compliance with federal and state permit requirements. Small communities face unique financial and facility operation challenges due to the small number of fee payers available to support new plant construction, upgrades and ongoing

management responsibilities. The State Water Board adopted a small community strategy in 2008 to better assist these communities in achieving compliance. The Water Boards should evaluate the effectiveness of these strategies and propose a comprehensive approach that addresses common fiscal and operational deficiencies. An element of this approach should explore the development of a system of "general permits" to address similar activities at small community waste water treatment plants, such as the use of pond systems and "package plants."

10. Conduct an Evaluation of the Waste Discharge Requirements Program to Examine and Make Recommendations Regarding the Declining Compliance and Enforcement Trend Data Presented in this Report.

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

<u>POLICIES AND PROJECTS FOR OE ACTION IN 2009</u>	
1) POLICIES	<ul style="list-style-type: none"> • SEP/CAA Policy – Considered on February 3, 2009 Board Meeting (SPA Item 1.3.4) Proposed SEP Policy adopted • Remainder of Enforcement Policy – TBD, 2009 (SPA Item 1.3.4)
2) SPECIAL PROJECTS	<ul style="list-style-type: none"> • Enforcement Data Project – Commence on February 18, 2009 (related to SPA Item 5.2.1) • Continue Pilot Enforcement Project with DFG in LA Region (SPA Item 7.4.1) Expected completion date 4/09 • Continue MMP Enforcement Initiative (SPA Item 1.3.1) • Work with DWQ to implement AB 258 (SPA Item 1.3.3) • Work with DWQ, Region 4, and DFG to implement storm water enforcement project (SPA Item 7.4.1) • Work with Region 4 to implement AGO Enforcement pilot project • Develop Pretreatment enforcement pilot project
3) SPECIAL REPORTS	<ul style="list-style-type: none"> • Report on the MMP Enforcement Backlog Initiative (SPA Item 1.3.1) Organize report by mid-January 2009 with completion date in March 2009 • Assist ORPP with annual Water Quality Enforcement Report • Assist ORPP with Cal/EPA Annual Enforcement Report

Section 9

Initiatives and Accomplishments for FY 2007-2008

During Fiscal Year 2007-2008 three enforcement related initiatives were implemented that have an impact on more than one region or more than one program.

MMP Initiative – 2008 Statewide Initiative for MMP Enforcement

The [Office of Enforcement](#), Special Investigations Unit, ~~in the plane~~ developed and implemented an approach with the Regional Water Boards to eliminate the MMP enforcement backlog by December 31, 2008. In the [2007 Water Boards Enforcement Report](#) [per California Water Code section 13385(o)], the data indicated that 7,880 MMP violations (from January 1, 2000 to December 31, 2007) had not received a penalty at or above the required minimum.

In February, 2008, the OE began examining the large number of violations subject to mandatory minimum penalties in CIWQS dating back to January 1, 2000 that had not yet received a formal enforcement action. After discussing the possible ways to efficiently address these outstanding violations, the Water Boards implemented a Statewide Initiative for MMP Enforcement (Initiative).

The Initiative's goal was to substantially reduce the MMP enforcement backlog by December 31, 2008. Violations occurring on or before December 31, 2007 (beginning with January 1, 2000) were considered "backlogged" violations for the purposes of the Initiative, although certain Regional Boards chose to bring MMP enforcement up-to-date. The reduction of the backlog used a phased approach of first resolving uncontested MMP violations with limited staff time by sending letters to facilities with alleged MMPs and offering them the opportunity to [resolve](#) their violation(s) by acknowledging them, and providing full payment of any accrued mandatory penalties. Based on the response to this initial correspondence by facilities subject to the MMPs, the Water Boards would then sequence and process the remaining non-responsive and/or contesting facilities for MMP enforcement hearings.

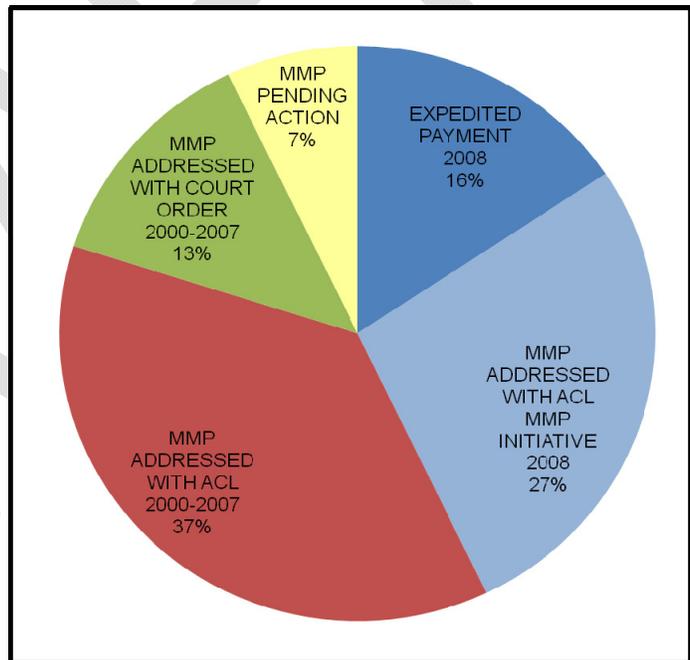
The Initiative also intended to validate information in CIWQS regarding MMP violations to ensure that the database accurately reflected MMP violations and the actions that had been taken to address them. As the

first step of the Initiative, State Board and Regional Board staff began reviewing the data in CIWQS which would be used to generate notices of violations for the existing MMP enforcement backlog. Efforts to review and validate data in CIWQS began on March 7, 2008. A 1 month “cleanup period” began to address any CIWQS data problems, complete additional data entry, and correct any known errors.

The data updating process continued as a coordinated effort of Regional and State Water Board staff until data for all facilities with MMPs had been validated to ensure that accurate notification letters would be sent. Once violation information had been reviewed and validated, the Regional and State Water Board staff issued notices of violations and/or offers to dischargers (Expedited Payment Letters) to resolve their outstanding violation(s). Facilities were addressed on a flow basis beginning in July 2008, as CIWQS data was validated for each facility, and continued on an ongoing basis.

Throughout the Initiative, State and Regional Board staff worked together to eliminate or significantly reduce the MMP backlog. The Initiative was implemented in a dynamic way such that issues and solutions that arose in one region were shared with a state-wide Coordinating Committee.

As of December 12, 2008, the backlog of MMP violations without enforcement actions had been substantially reduced. Several Regional Water Boards have addressed all outstanding violations in their jurisdiction, and the remaining regional boards are nearly finished. As a result of the MMP initiative, the State Board and Regional Boards have addressed approximately 8,895 violations from 364 facilities statewide. The Initiative has also resulted in a more accurate and complete recording of violations. The State Water Board’s Office of Enforcement has tracked progress towards resolving the covered MMP violations and a special report on the Initiative will be ~~prepared later~~ presented in April, 2009. The report will include a description of challenges encountered in implementing the Initiative, lessons learned and any recommendations for



improving the MMP statutes and for improving the Water Boards' implementation of the MMP requirements.

Wastewater Collection Systems - [Sanitary Sewer Overflow \(SSO\) Program Compliance Update.](#)

A sanitary sewer overflow (SSO) is any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs do not include overflows from blockages or other problems within a privately owned lateral. SSOs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oil, and grease. Typical consequences of SSOs include the closure of beaches and other recreational areas, inundated properties, and polluted rivers and streams.

In May, 2006, the State Water Resources Control Board (State Water Board) adopted a Statewide Sanitary Sewer Order ([ORDER NO. 2006-0003-DWQ](#)) to address the issue of SSOs in a consistent and uniform manner statewide. Through the Statewide Sanitary Sewer Order, California became the first state in the nation to implement a program focused on the regulation of sanitary sewer systems.

The objective of the Statewide Sanitary Sewer Order is to reduce the numbers and volumes of SSOs across the state through the proper operation and maintenance of sanitary sewer systems. The Statewide Sanitary Sewer Order requires:

1. Enrollment for coverage under the general order 2006-0003-DWQ.
2. Completing of a Collection System Questionnaire.
3. Monthly Reporting and No Spill Certification.
4. Implementation of a sewer system management plan (SSMP) documenting the actions an Enrollee is taking to properly operate and maintain their sanitary sewer system with the goal of reducing SSOs.

The SSO program current staffing is as follows, one PY is dedicated to information technology support services and two PY are within the Division of Water Quality as SSO program staff to perform all SSO program implementation activities including enforcement of the requirements of the SSO order

Staff efforts have resulted in 1,067 collection systems that are now enrolled and regulated under the general order representing 98% of known

potential enrollees. The collection system questionnaire has been completed by 75% of the enrollees. The monthly reporting compliance rate during this period fluctuates from month to month and ranges from 65% to 80%. At this early point in the implementation of the permit there is not enough information to assess compliance with the SSMP requirement. The SSO reporting data will be the primary measurement tool staff and enrollees have to judge SSMP effectiveness.

Staff believes that the significant number of enrollees which have not completed the collection system questionnaire is a result of lack of understanding about the Statewide Sanitary Sewer Order requirements. To remedy this, the SSO database has been programmed to prohibit SSO reporting or no spill certification submittal until the enrollee's collection system questionnaire has been completed.

The monthly reporting compliance rate ranging from 65% to 80% is not at an acceptable level and in part results from the newness of the regulations, computer reporting barriers and a lack of understanding of the reporting requirements.

Staff has developed a plan to increase the monthly reporting compliance rate over the next year. The plan relies on outreach and training efforts, noncompliance advisory letters for enrollees not complying, staff contact with enrollees receiving the advisory letters and enforcement proceedings for enrollees that remain in noncompliance.

As improvement in the compliance rate for the Statewide Sanitary Sewer Order's basic reporting requirements is achieved, a similar progressive enforcement strategy will be employed for the other SSO reporting requirements and SSMP development phases.

The Statewide Sanitary Sewer Order contains a time schedule for the completion of a final SSMP with intermediate deadlines for the individual elements. The time schedule requires completion of the final SSMP by 2009 or 2010, depending upon the population served by the enrollee, with smaller communities having more time. Staff will increase SSMP compliance efforts as the final completion deadlines approach. Staff expects this increase in workload to correspond in time with a decrease in reporting compliance efforts described above, assuming the reporting compliance rate improves as expected.

Enforcement Coordination with the Department of Fish and Game /Water Board Pilot Enforcement 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.](#)

This initiative was launched with one-day event in April 2008 that introduced enforcement staff from DFG, the State Board, and Water Board Region Los Angeles to the concept of an improved, coordinated enforcement program between the two agencies. Workshop participants identified approximately six (6) locations within the Los Angeles and Ventura County area where teams of DFG and Region Water Board staff could participate in joint inspections. Enforcement and Storm Water staff from the State Water Board also assisted in the development of the workshop.

Over the next four months, the DFG/Regional Water Board teams completed joint inspections at all of the identified sites. Some of these joint inspections have led to formal or informal enforcement actions, while other investigations are ongoing. A small team of staff from of DFG, the Regional Water Board, and the State Board continued to hold monthly or bi-monthly teleconferences throughout this period in order to follow the progress of the joint inspections and address problems or issues that arose. During the course of these meetings, the team developed the concept of a joint enforcement "field manual" which would provide reference materials for staff.

A follow-up 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. Joint inspection teams presented the outcomes of their efforts and discussed ways to further improve coordination and communication between the two agencies. Participants were also introduced to the enforcement "field manual" concept and were asked to provide input about information that they would find useful in such a resource. A draft field manual is scheduled to be completed in early 2009.

Appendix 1: Description of Enforcement Authorities

INFORMAL ENFORCEMENT

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

TIME SCHEDULE ORDER

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

NOTICES TO COMPLY

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

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

CEASE AND DESIST ORDERS

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

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

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

CLEANUP AND ABATEMENT ORDERS

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

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

MODIFICATION OR RESCISSION OF WASTE DISCHARGE REQUIREMENTS

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

ADMINISTRATIVE CIVIL LIABILITY

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

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

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

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

REFERRALS TO ATTORNEY GENERAL OR DISTRICT ATTORNEY

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

a. California Attorney General

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

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

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

b. District Attorney

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

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

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

c. Civil Versus Criminal Actions

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

Table 53: Types and Classification of Enforcement Actions

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

Appendix 2: Examples of Water Board Enforcement Actions

Statistics alone cannot tell the story of the Water Boards' enforcement efforts. The following are examples of significant enforcement actions taken by the Regional Water Boards during Fiscal Year 2007-2008.

North Coast Regional Water Quality Control Board

The North Coast Regional Water Board enforcement team focused on clearing the MMP backlog, an effort that continued on through the end of 2008. We also began to direct increasing attention to sanitary sewer overflows, mostly at NPDES facilities, as we addressed the MMPs associated with those facilities. Concurrent with those efforts, we took varying levels of progressive enforcement for a number of other types of discharges. Most notably:

California Department of Transportation

In March 2008, the North Coast Regional Board adopted an ACL order for \$20,000 to California Department of Transportation for an unauthorized discharge of drilling mud into the South Fork Eel River at its Confusion Hill Bypass project.

Gallo of Sonoma, Dry Creek Winery

In September 2007, the AEO issued an ACLC for \$10,000 to Gallo of Sonoma, Dry Creek Winery for discharging leachate from a wine grape pomace compost pile into a tributary of Dry Creek. On February 10, 2008, approximately 1,400 gallons of propylene glycol discharged from the winery facility into the tributary, leading the AEO to issue a revised ACL in April 2008 to include this discharge; the amount of the penalty remained at \$10,000.

Robert Dreifuss, Mendocino County

In September 2007, a Cleanup and Abatement Order was issued to Robert Dreifuss for disturbing earth and vegetation over a ten-acre site east of Willits, Mendocino County in an area tributary to Tomki Creek which flows into the Eel River. Staff continued to work with Mr. Dreifuss for some time to stabilize the area, but ultimately determined that in the interest of public health, safety, and the environment, it was appropriate to obtain funding from the Cleanup and Abatement Account to implement an emergency cleanup action, removing substantial amounts of soil from and installing erosion control measures throughout the site. Staff also continues to work cooperatively with the Mendocino County

District Attorney's office in its pursuit of this case and various individuals involved in the earth moving activities on the site.

Dennis Wendt, Humboldt County

In November 2007, a Cleanup and Abatement Order was issued to Dennis Wendt for constructing a subdivision on a 38-acre parcel in Fortuna, Humboldt County, without a Water Quality Certification, waste discharge requirements or general stormwater permit for construction activities. The discharger rerouted a watercourse and filled wetlands. The CAO requires submittal of a workplan and reports for correction of violations at the site and restoration of wetlands.

Renner Petroleum, Del Norte County

In February 2008, the EO issued a Cleanup and Abatement Order to Renner Petroleum for discharging diesel oil into the Smith River, Del Norte County. Renner Petroleum owned and operated a fuel tanker truck delivering diesel. The truck wrecked at Post Mile 11.38 on Highway 199 near Gasquet. Diesel soaked into the soil and began to bleed into the Smith River below the highway.

San Francisco Bay Regional Water Quality Control Board

There were a number of discharges to San Francisco Bay that resulted in high profile enforcement cases during the 2007-2008 Fiscal Year, such as the Cosco Busan oil spill, degrading warships in the mothball fleet, and other sewage spills. Sanitary sewer overflows are a continuing problem that the San Francisco Bay Water Board is actively addressing.

Sewage Agency of Southern Marin

The San Francisco Bay Regional Water Board recently reached a \$1.6 million settlement with the Sewage Agency of Southern Marin over an Administrative Civil Liability complaint for alleged violations associated with the discharge of untreated sewage to surface water feeding San Francisco Bay. As a result of the settlement agreement, \$800,000 will be deposited in the State Water Resources Control Board Cleanup and Abatement Account and \$800,000 will fund the restoration of local habitat (Aramburu Island) and a program to replace private lateral pipelines that feed the treatment plant. The latter effort will reduce peak flows to the treatment plant during the wet season.

City of San Mateo, Town of Hillsborough, and Crystal Springs Sanitation District

The San Francisco Bay Regional Water Board simultaneously issued individual Administrative Civil Liability complaints and a joint Cease and Desist Order to address sanitary sewer overflows from a connected collection system involving the City of San Mateo, the town of Hillsborough, and the Crystal Springs Sanitation District. The San Francisco Bay Regional Water Board reached settlement agreements of \$950,000, \$405,000, and \$23,375, respectively, for alleged violations in the Administrative Civil Liability complaints and issued a joint Cease and Desist Order to these dischargers with provisions to prevent future sanitary sewer overflows.

Central Coast Regional Water Quality Control Board

Tract 1990 Enforcement

Tract 1990, LLC is the owner and developer of a residential home project in San Luis Obispo County. Project plans include about 250 homes on a total of 255 acres. The site is in an area of rolling hills in the Lake Nacimiento watershed. While installing roads and other site improvements, Tract 1990 filled in several unnamed, blue-line creeks. During the 2005-2006 rainy season, the fill eroded, unleashing sediment that further filled the creeks and eventually flowed in the lake. Water Board staff alleged that Tract 1990 violated the federal *Clean Water Act* by discharging fill into waters of the United States without a permit. Staff also alleged violations of the general construction stormwater permit.

Before issuing an ACL complaint, Water Board staff and Tract 1990 discussed options for settling the allegations. Tract 1990 eventually agreed to pay a penalty of \$400,000 to the Cleanup and Abatement Account. This was the first instance of the Central Coast Water Board imposing a monetary penalty for violations of *Section 404 of the federal Clean Water Act*.

Los Angeles Regional Water Quality Control Board

Cleanup and Abatement Orders

The Kissel Company, Inc., Paradise Cove Mobile Home Park Cleanup and Abatement Order (CAO) No. R4-2007-0043 was issued to the Kissel Company, Inc. on September 5, 2007 to take remedial action to cleanup and abate and threatened discharges of raw sewage at Paradise Cove Mobile Home Park. The CAO was issued in response to the chronic unpermitted discharges of untreated and partially treated sewage at the park. Among other requirements, the CAO ordered the Permittee to immediately cease all unauthorized sewage discharges.

AGENCY REFERRALS - ACTIVE CASES:

On March 24, 2008, The Attorney General, acting for the Regional Board, filed a Complaint in Los Angeles County Superior Court against Los Angeles County Department of Public Works and the Southern California Gas Company for violations of the *California Water Code* and the *Clean Water Act*. These violations include the Defendants' discharging pollutants, such as soil, rock, and sediment, to Sullivan Canyon Creek, a "Water of the United States," without the proper waste discharge requirements or federal Water Pollution Control Act permits, and without the proper water quality certification from the Regional Board.

LA Region /AGO Pilot Enforcement Project

In April 2007, Regional Board management met with the Office of the Attorney General (AGO) to discuss establishing a Pilot Enforcement Project between the Water Board and the AGO. The Water Boards' goal is to enhance the water quality enforcement capabilities of the Water Board by improving coordination between the staff of the AGO and the Water Board. This pilot project is being developed with implementation beginning in 2009.

SWRCB/LA Region/DFG Inter Agency Project

An inter-agency project aimed at strengthening the aligned enforcement programs of the Water Board and the Department of Fish and Game (DFG) was kicked off with a workshop for enforcement personnel at the Los Angeles Regional Water Quality Control Board offices on April 1, 2008.

This project is to support the agencies' joint efforts to increase the effectiveness of our enforcement programs to achieve our common goals of lessening pollution, reducing violations, and improving protection for water resources and habitat in the Los Angeles area. A follow up joint-agency field exercise and a workshop will follow.

Conditional Early Settlement Offers

To promote early settlement of administrative enforcement actions, the enforcement unit has developed and implemented a pilot program for issuance of conditional early settlement offers (settlement offer) to permittees subject to mandatory minimum penalties. Three settlement offers were issued.

Complaint Triage Process

The enforcement unit has developed a Complaint Triage Process (CTP) to address cross-media complaints received from the public, dischargers, and local, state, and federal agencies. The CTP defines a central point of receipt for these complaints, allows for a quantified determination of the entity best suited to respond to the complaint and provides a method to track and research actions taken. Approximately 129 complaints have been addressed to date.

Central Valley Regional Water Quality Control Board

\$250,000 Administrative Civil Liability to Sacramento Regional County Sanitation District for Storm Water Violations

During the construction of a sanitary sewer line, Sacramento Regional Communities Services District failed to implement proper stormwater protection practices resulting in turbid discharges to Morrison Creek in southern Sacramento County. The discharge turbidity was 45 times greater than background. A biologist from the State Department of Fish and Game determined that the discharge was harmful to aquatic life. Problems at the Bradshaw Road construction site were not the first time that the Sanitation District's contractors failed to provide adequate erosion and sediment control. Due to repeated violations and discharges of turbid water the Executive Officer issued the Administrative Civil Liability complaint. The penalty was paid in full.

\$250,000 Administrative Civil Liability to Tehama Market Associates, LLC, & Albert Garland, Linkside Place Subdivision, Butte County for Storm Water Violations

At a hearing the Regional Board issued an Administrative Civil Liability (ACL) for \$250,000 (the Regional Water Board increased penalty from \$150,000 to \$250,000) to Tehama Market Associates, LLC, and Albert Garland for discharging sediment-laden stormwater from the Linkside Place subdivision without an NPDES permit or coverage under the General Construction Storm Water Permit. The ACL was petitioned to the State Water Board and on September 27, 2007, the State Water Board found that the petition failed to raise substantial issues that are appropriate for

review by the State Water Board. Accordingly, the State Water Board dismissed the petition. The discharger has challenged the enforcement action in court.

\$300,000 Administrative Civil Liability to K. Hovnanian Forecast Homes Southern, Inc. in El Dorado County for Storm Water Violations

The Executive Officer issued an Administrative Civil Liability complaint to K. Hovnanian Forecast Homes Southern, Inc – Euer Ranch Subdivision of El Dorado Hills in the amount of \$300,000 for violations of the construction stormwater general permit.

K. Hovnanian Forecast Homes is the owner and developer of the Euer Ranch Subdivision, a 167-acre construction project in El Dorado County. K. Hovnanian Forecast Homes has agreed to settle the complaint. Under the final settlement agreement, K. Hovnanian Forecast Homes (1) paid an administrative civil liability of \$200,000 to the State Water Resources Control Board's Cleanup and Abatement Account, and (2) completed a Supplemental Environmental Project which involved preparation of stormwater education materials by the Water Education Foundation at a cost of no less than \$100,000.

Lahontan Regional Water Quality Control Board

County Sanitation Districts No. 14 (Lancaster Water Reclamation Plant) and No. 20 (Palmdale Water Reclamation Plant) of Los Angeles County

On November 29, 2007, the Lahontan Regional Water Board adopted an Administrative Civil Liability order that (1) resolved claims for violations of cease and desist orders, waste discharge requirements, and a cleanup and abatement order (Palmdale Water Reclamation Plant only), (2) settled ongoing litigation, and (3) initiated a \$4.55 million Supplemental Environmental Project (SEP).

The SEP will contribute \$4.55 million to specific components of the Antelope Valley Recycled Water Project. The overall project will result in constructing a regional recycled water distribution system linking water reclamation facilities in Palmdale, Lancaster, and eventually Rosamond, to municipal and other reuse sites throughout the Antelope Valley. When completed, the project will benefit the environment and communities it serves by enhancing reuse of recycled water, facilitating groundwater recharge projects, and lessening the demand on groundwater and other potable water resources.

Northstar Mountain Properties Development

In 2006, Northstar Mountain Properties, LLC (NMP) significantly expanded development activities within the Northstar resort community north of the Lake Tahoe Basin. NMP was involved with constructing 11 projects (e.g., residential, commercial, recreation, roadways and other infrastructure) on approximately 340 acres on mountainous terrain. NMP's environmental protection program was not robust enough to address the challenges created by construction activities. The result was multiple alleged violations associated with threatened and actual waste discharges to surface waters, and the Regional Water Board issued multiple notices of violation and a Cleanup and Abatement Order.

Following the cleanup and abatement order and discussions with Regional Water Board staff regarding pending liabilities, NMP developed a much more robust environmental protection program that included a new and substantial emphasis on environmental protection, adequate financial resources and technical support, and effective training. NMP had developed the model for other development projects to follow. Water Board staff and NMP have also developed a proposed settlement for claims for liability in the amount of \$2.75 million, of which \$2.25 million is to be dedicated to watershed restoration projects in and near the Northstar resort community.

Colorado River Basin Regional Water Quality Control Board

City of Brawley

The Colorado River Basin Regional Water Board adopted a Cease and Desist Order against the City of Brawley, population 25,000, on March 19, 2008 after chronic noncompliance at the city's wastewater treatment plant (WWTP) in Imperial County. In addition, on June 25, 2008 the Regional Water Board adopted an Administrative Civil Liability order for \$354,750 against the city for chronic violations at the WWTP from 2000 to the present, including \$291,000 in mandatory minimum penalties (MMP), \$18,750 in staff costs, and a \$45,000 penalty. This was followed on September 17, 2008 with another ACL for \$129,000 in penalties.

The enforcement actions were taken by the Regional Water Board after the city failed to comply with a 2004 Cleanup and Abatement Order issued by Regional Water Board staff to require upgrades at the WWTP. The CDO requires the City to develop a pollution prevention plan, improve and upgrade the WWTP by the end of 2010 (estimated to cost over \$20 million), develop and implement a pretreatment program, and obtain properly certified WWTP operators. As a part of the settlement of

the administrative civil liabilities, the city agreed to spend \$256,875 on several supplemental environmental projects, including a local drainage improvement project and a water conservation public awareness project. The remaining penalty of \$226,875 was paid to the State Water Pollution Cleanup and Abatement Account.

Santa Ana Regional Water Quality Control Board

During FY 2007-2008, the Santa Ana Water Board took 632 enforcement actions. Of these enforcement actions the following two are noteworthy for the reasons stated below.

City of Riverside, Sanitary Sewer Overflows, Administrative Civil Liability Complaint No. R8-2007-0047

The City of Riverside owns and operates the Wood Road Sewage Lift Station that is designed to collect raw sewage from surrounding areas and convey it to the city's publicly owned treatment works (POTW). In the early 1990s, the city equipped this station with a primary pump and three spare pumps. Each of the pumps had the capacity to handle the entire flow. The lift station was also equipped with a backup power generator and redundant communication systems. Even with such an elaborate redundant system, there were two significant sewage spills from this Lift Station within two months of each other due to human error and a lack of maintenance.

The two spills described above could have been prevented had the city taken appropriate measures for proper operations and maintenance of the pump station and properly trained its employees. The Executive Officer issued Administrative Civil Liability Complaint, and a negotiated settlement was reached with the city on August 28, 2007 for a liability of \$429,000. It was further agreed that the city could participate in a supplemental environmental project (SEP) for \$200,000 of this liability. The city has developed and implemented a SEP project for the collection and proper disposal of expired and/or unused medications from its residents. As part of this program, the city has also made a significant contribution to the statewide efforts to educate the public on proper disposal of unused medications.

City of Norco, Municipal Separate Storm Sewer System (MS4) Permit Violations, Administrative Civil Liability Complaint R8-2007-0056

In August 2006, Regional Water Board staff audited the City of Norco's MS4 program and determined that the city had failed to implement provisions of the MS4 permit and had done very little to control the

discharge of pollutants to surface waters. Runoff from the city's storm water conveyance systems is tributary to Reach 3 of the Santa Ana River and lies just upstream of Prado Basin (a wetlands portion of the Santa Ana River that supports threatened and endangered species). The City is an equestrian-oriented community with a population of approximately 26,000 and is referred to as "Horsetown USA" due to its large population of homeowners with horses (approximately 15,000 horses). One of the beneficial uses of this reach of the River is body contact recreation.

The ACL complaint was issued to the City of Norco with an assessment of \$78,494. One of the deficiencies identified in the ACL was the lack of a management plan to control the manure and other wastes generated from the stabling of 15,000 horses throughout the city. Storm water runoff that comes in contact with the manure could have high levels of bacteria, nutrients and other pollutants. These pollutants can adversely impact the beneficial uses of the receiving waters. The city agreed to address the manure problem and to participate in a SEP project. The SEP project was to contribute \$39,247 of the liability to a wetlands project for water quality enhancements on approximately 337 acres within the Prado Basin floodplain, an area that was probably adversely impacted by the manured stormwater runoff from the city. Furthermore, the city enacted an ordinance prohibiting the stockpiling of manure, and made arrangements with the city's waste hauler to regularly pickup horse manure from the residents.

San Diego Regional Water Quality Control Board

North County Transit District, Sprinter Rail Construction Project ACL Order Nos. R9-2007-0219 and R9-2008-0068.

On December 6, 2007 and June 11, 2008, the San Diego Regional Board adopted orders imposing liability of \$160,000 and \$685,000, respectively, against the North County Transit District (NCTD) for violations of the Statewide General Construction NPDES Permit at the Sprinter Rail Construction Project. The project includes construction along a 22-mile long rail corridor. Liability was assessed for failure to perform adequate inspections, implement adequate construction best management practices (BMPs), and for unauthorized discharges of sediment to a municipal separate stormwater system and waters of the United States. Stormwater management did not markedly improve after the first complaint was issued. As a result of the second order, the discharger implemented significant improvements to BMP implementation and oversight.

Appendix 3: Clean Water Act Citizen Suits Provisions

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

If a violator does not comply with the Clean Water Act or with the regulatory agency's enforcement actions, then any person or entity that either is or might be adversely affected by any violation has the right to file a citizen suit against the violator. Citizens can seek injunctive relief (court orders prohibiting the pollution from continuing), civil penalties, and reimbursement of legal costs and attorneys' fees.

Section 505(b) of the Clean Water Act regulates if and when a citizen can sue a polluter or any regulatory agency for their failure to enforce the Clean Water Act. Before a citizen can file a citizen suit against any alleged violator, the Clean Water Act requires citizen plaintiffs to send a 60-day Notice of (their) Intent to File Suit to the entity for its alleged violation, and copy the state regulatory agency and the U.S. EPA Administrator. Receipt of this notice initiates the 60-day period in which the violator must come into compliance with its permit or Administrative Order in order to avoid a court case. This "grace period" allows a violator to comply or temporarily comply. Any citizen can file a suit against any violator of the Clean Water Act, only after the 60th day of the period of notification of Intent to Sue and if the following two actions occurred during the 60-day period: (1) the regulatory agency failed to require a violator's compliance with the Clean Water Act's effluent standards or limitations or with an Order requiring compliance with these standards or limitations, and (2) the regulatory agency did not begin, and did not continue to diligently prosecute a civil or criminal action against the violator.

While the Water Boards do not currently track citizen suits filed against alleged violators, staff are recommending that the Office of Enforcement begin tracking the notices of Intent to Sue and their disposition for future reports.

Appendix 4: Regulatory Tools Table

Table 54: Regulatory Tools

Regulatory Tool	Permit Update Frequency	Timeframe to Issue Permit	Inspection Access *	Inspection Frequency	Monitoring & Reporting	Mandatory Penalties	Citizen Suit Provisions
NPDES Individual	Yes (1, 2)	No	Public-No notice Private-consent or warrant	Yes (1, 2)	Yes (1, 2)	Yes Effluent & Reporting violations	Yes
NPDES General	Yes (1, 2)	No	Public-No notice Private-consent or warrant	Yes (1, 2)	Yes (1, 2)	Yes Effluent & Reporting violations	Yes
NPDES Pre-treatment	Yes Contract Renewal	No	Consent or Warrant	Yes (1)	Yes (1)	No	No
WDR Individual	Yes (2)	Yes Statute	Public-No notice Private-consent or warrant	Yes (2)	Yes Permit Specific	No	No
WDR General	Yes (2)	N/A	Public-No notice Private-consent or warrant	Yes (2)	Yes Permit Specific	No	No
WDR Waiver	Yes Statute	Yes RB must reissue before 5 yr expiration	Public-No notice Private-consent or warrant	Yes Inspection Authority	Yes Waiver Specific	No	No
Basin Plan Prohibitions	No	No	CWC 13267	No	No	No	No
401 Certification	N/A	Yes (2)		Yes Inspection Authority	Yes Permit Specific	No	Yes
13267 Authority	N/A	N/A	Consent or Warrant	Yes Inspection Authority	Yes	No	No
CAO (unpermitted discharges)	N/A	No	Consent or Warrant	Yes Inspection Authority	Yes	No	No

1.- US Environmental Protection Agency regulations and delegated program agreement.
 2.- Water Boards Administrative Procedures Manual

Appendix 5: Categories and Types of Waivers

The following table lists the existing categories and types of waivers that are used to regulate dischargers that are not addressed through the core regulatory programs.

Table 55: Categories and Types of Waivers

Waiver Type/Category	Regional Board								
	1	2	3	4	5	6	7	8	9
Agriculture									
Grazing and Range Land Operations	○	○	■	■	■	○	■	■	■
Irrigation Return Water	X**	X	XY	Y	XY	○	X**	○	XY
Small Composting Operations	○	○	○	○	X	○	○	○	XY
Small Animal Waste Disposal Facilities and/or Small Confined Animal Feeding Operations	XY	XY	○	○	X**	X**	○	○	XY
Fertilizer and Pesticide Facilities	○	○	X**	○	X**	○	○	○	○
Pesticide Rinsewater Disposal Operations	XY	X	X**	○	X**	○	○	○	○
Small Food Processing Waste Disposal Operations	XY	X**	X**	○	XY	○	○	○	○
Industrial and Food Processing Wastes Used for Soil Amendment	XY	○	○	○	XY	○	X**	○	○
Small Agricultural Waste Disposal Operations Including Crop Residue	○	○	○	○	○	○	○	○	XY
Commodity Wastes	XY	X**	X**	○	XY	○	XY	○	○
Winery Operations	Y	X	**	○	Y	○	○	○	○
Stormwater									
Stormwater Runoff	X**	X**	X**	**	X**	X**	**	**	X**
Sewage									
Individual On-Site Domestic Septic Systems	XY	X**	X**	XY	X	X**	X**	XY	XY
Individual On-Site Commercial Sewage Systems	XY	X**	X**	○	X**	X**	X**	XY	XY
Individual On-Site Industrial Sewage Systems	XY	X**	X**	○	X**	X**	X**	XY	XY
Small Multi-User On-Site Sewage Systems		X**	X**	○	X**	X**	X**	XY	XY
Minor Sewage Sludge Application/Disposal Proje.	○	○	X**	○	X**	○	○	○	○
Wells/Boring Waste									
Water Well Development Discharge	XY	○	XY	○	Y	○	○	**	○
Monitoring Well Development Discharge	XY	○	XY	○	○	○	○	**	○
Monitoring Well Purge Water Discharge	XY	○	XY	○	○	○	○	X**	○
Well Drilling/Testing	X**	X**	XY	○	X**	X**	XY	**	XY
Geothermal Well Drilling/Testing	○	○	○	○	○	X**	○	○	○
Injection Wells	○	X	XY	○		X**	○	○	○
Drill Cutting Disposal	○	○	○	○	○	○	○	XY	○
Small Drilling Mud Disposal Operations	XY	X**	XY	X**	XY	X**	○	○	XY
Clear Water" Discharges									
Water Main/ Storage Tank/ Hydrant Flushing	XY	○	○	○	○	X**	○	X**	X
Pipelines/Tank Hydrostatic Testing Discharge	XY	○	○	○	○	X**	○	X**	**
Swimming Pool Discharge	XY	X	XY	X**	XY	XY	XY	XY	XY

Waiver Type/Category	Regional Board								
	1	2	3	4	5	6	7	8	9
Mining/Excavation/Construction									
Suction Dredging									
Small/Short-Term Mining, Including Sand and Gravel	X**	X**	XY	O	X**	X**	XY	XY	XY
Minor Dredging Projects/Dredge Material Disposal	X**	X**	XY	O	X**	X**	XY	X**	XY
Minor Streambed Alteration	X**	X**	XY	O	X**	X**	O	X**	XY
Small and/or Short-Term Construction Projects (See "Stormwater" also)	X**	X**	XY	O	XY	X**	O	O	O
Small /Temporary Dewatering Projects (such as excavations during construction)	X**	X**	XY	O	O	X**	XY	X**	X**
Small Construction/Maintenance Projects in Wetlands or Waterways	XY	X**	XY	O	XY	X**	O	X**	O
Bridge Seismic Retrofitting	O	O	XY	O	O	O	O	X	O
Miscellaneous									
Small Inert Waste Disposal Operations	X**	X**	XY	O	XY	X	XY	XY	XY
Air-Conditioning Condensate Disposal	XY	X**	XY	O	XY	O	XY	**	XY
Small Cooling Water/Elevated Temperature Water Disposal	XY	X**	X**	O	XY	O	XY	O	O
Minor Brine Disposal	O	O	X**	O	O	O	O	O	O
Minor Hydroelectric Projects	XY	X**	X**	O	X	X**	XY	O	O
Emergency Discharges	O	O	O	O	O	X**	O	O	O
Timber Harvesting (operating under an approved plan)	X**	X	X	O	X**	X**	X	Y	XY
Incidental Discharge of Oily Wastewater During Oil Spill Response Activities	O	O	O	O	O	O	O	X	XY
Clean Oils	X**	O	X	O	X	O	O	O	O
Utility Vault and Conduit Flushing and Draining	O	O	O	O	O	X**	O	O	X**
Specified Contaminated Soils	XY	O	O	O	O	O	O	O	XY
Underground Tank Abandonments/Replacements	O	O	O	O	O	X**	O	O	O
Lake or Reservoir Drainage Projects	XY	O	O	O	O	X	O	O	O
Use of Reclaimed Water	XY	O	O	O	X	O	O	O	XY
Undeveloped Transportation Corridor									

X = Waiver category pre-SB 390

Y= Waiver renewed post-SB 390.

**** = Discharge category covered by a separate conditional waiver, Statewide GO, RB GO, Stormwater Permit, 401, WDR, NPDES, delegated to other agency, conditional prohibition, or a catch-all category.**

Red shading indicates discharge is not covered by regulatory tool as a category. RB may regulate per TMDL implementation.

O = Gray shading indicates discharge category is assessed on a case by case basis.

Green shading indicates category covered by statewide General WDR for Low Threat Discharges Order 2003-003

NOTE: Data acquired by phone conversation with regional board staff in January 2007. Blank cells indicates more information is needed.

Appendix 6: Links To Required Enforcement Reports

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

Region 1:

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

Region 2:

http://www.waterboards.ca.gov/sanfranciscobay/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

Region 4:

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

Region 5:

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

Region 6:

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

Region 7:

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

Region 8:

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

Region 9:

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

CWC section 13323(e) Quarterly Enforcement Summaries

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

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

List of Enforcement Orders

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



Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

ENFORCEMENT COORDINATORS

North Coast Region (1)

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

San Francisco Bay Region (2)

www.waterboards.ca.gov/sanfranciscobay
1515 Clay Street, Suite 1400
Oakland, CA 94612
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/coloradriver
73-720 Fred Waring Dr., Suite 100
Palm Desert, CA 92260
Doug Wylie (760) 346-6585
dwylic@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
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Director of Office of Enforcement
Reed Sato

Underground Storage Tanks Enforcement Unit
Kim Sellards (916) 341-5869
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All other Enforcement
Mark Bradley (916) 341-5891
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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

