

# State Water Resources Control Board

## CWC 13385 Report on NPDES Violations and Enforcement

Mark Bradley

Office of Enforcement – February 5, 2008

# California Water Code Section 13385

13385 (o): The state board shall continuously report and update information on its Web site, but at a minimum, annually on or before January 1, regarding its enforcement activities. The information shall include all of the following:

- (A) A compilation of the number of violations of waste discharge requirements in the previous calendar year, including stormwater enforcement violations.
- (B) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions
- (C) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

# Overarching Considerations

- Reporting Period
  - Annual reporting by January 1 for the previous calendar year
- Federal Facilities
  - Omitted from this report, should be included in future reports
  - Separate study recommended
- Small and Disadvantaged Communities
- Data Quality

# What does the Report Address?

- NPDES violations, including stormwater violations
- Formal and informal enforcement actions taken in response to these violations
- Analysis of the effectiveness of enforcement policies, including MMPs

# Violations – NPDES Wastewater

Table 2: Number of Violations of NPDES Wastewater Permits 2000 to 2007

Violations of NPDES Waste Discharge Requirements								
Regional Office	2000	2001	2002	2003	2004	2005	2006	2007
1	974	705	443	494	697	290	194	54
2	447	479	285	256	273	296	324	139
3	363	404	324	216	416	411	413	245
4	1,541	1,372	1,065	2,166	2,005	1,209	1,972	392
5F	222	447	712	561	285	142	53	113
5R	225	94	101	74	50	120	98	25
5S	1,126	818	778	981	1,726	1,825	691	60
6A	10	11	18	11	9	5	1	2
6B	4	10	21	25	22	14	118	2
7	128	187	198	316	166	192	272	113
8	452	284	127	112	161	244	152	69
9	227	206	122	188	488	127	169	299
<b>Total</b>	<b>5,719</b>	<b>5,017</b>	<b>4,194</b>	<b>5,400</b>	<b>6,298</b>	<b>4,875</b>	<b>4,457</b>	<b>1,513</b>

# Violations – NPDES Stormwater

Table 6: Number of Violations of NPDES Stormwater Permits 2000 to 2007

Violations of NPDES Stormwater Waste Discharge Requirements								
Regional Office	2000	2001	2002	2003	2004	2005	2006	2007
1	70	61	51	87	11	0	5	1
2	138	18	103	63	112	8	3	2
3	19	29	94	28	197	453	60	57
4	204	1,170	1,129	696	510	270	210	123
5F	12	5	6	9	105	304	238	3
5R	62	21	127	27	153	48	69	56
5S	176	45	56	201	375	463	523	163
6A	22	30	69	49	75	40	68	2
6B	46	74	15	1	0	2	8	9
7	48	11	21	0	49	2	1	39
8	616	751	383	264	385	466	269	372
9	151	294	460	372	361	160	137	118
<b>Total</b>	<b>1,564</b>	<b>2,509</b>	<b>2,514</b>	<b>1,797</b>	<b>2,333</b>	<b>2,216</b>	<b>1,591</b>	<b>945</b>

# Enforcement – NPDES Wastewater

Table 8: NPDES Wastewater Violations Compared to Completed Enforcement Actions

NPDES Wastewater Violations Compared to Completed Enforcement Actions															
Calendar Year	2003			2004			2005			2006			2007		
Regional Office	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement
1	464	153	311	650	219	431	267	93	174	181	37	144	54	32	22
2	257	108	149	273	99	174	296	131	165	323	219	104	139	92	47
3	216	144	72	425	216	209	411	123	288	414	188	226	245	85	160
4	2126	448	1678	1864	1044	820	1129	565	564	1821	1098	723	392	235	157
5F	550	117	433	285	75	210	142	25	117	53	40	13	113	110	3
5R	74	33	41	51	7	44	107	26	81	76	38	38	25	0	25
5S	983	455	528	1727	791	936	1825	782	1043	692	359	333	60	39	21
6A	11	3	8	9	6	3	7	3	4	1	0	1	2	2	0
6B	25	10	15	23	5	18	14	3	11	118	26	92	2	2	0
7	316	21	295	166	36	130	191	12	179	272	5	267	113	0	113
8	129	55	74	184	91	93	245	33	212	152	14	138	69	12	57
9	218	9	209	545	9	536	127	15	112	214	17	197	299	9	290
<b>Total</b>	<b>5369</b>	<b>1556</b>	<b>3813</b>	<b>6202</b>	<b>2598</b>	<b>3604</b>	<b>4761</b>	<b>1811</b>	<b>2950</b>	<b>4317</b>	<b>2041</b>	<b>2276</b>	<b>1513</b>	<b>618</b>	<b>895</b>
<b>%</b>		<b>29%</b>	<b>71%</b>		<b>42%</b>	<b>58%</b>		<b>38%</b>	<b>62%</b>		<b>47%</b>	<b>53%</b>		<b>41%</b>	<b>59%</b>

# Enforcement – NPDES Stormwater

Table 10: NPDES Stormwater Violations Compared to Completed Enforcement Actions

NPDES Stormwater Violations Compared to Completed Enforcement Actions															
Calendar Year	2003			2004			2005			2006			2007		
Regional Office	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement	Total Violations	Without Completed Enforcement	With Enforcement
1	89	1	88	10	0	10	0	0	0	5	0	5	1	0	1
2	65	2	63	6	2	4	6	2	4	1	1	0	1	1	0
3	30	0	30	201	3	198	210	3	207	55	0	55	57	2	55
4	715	3	712	509	1	508	270	1	269	198	2	196	116	4	112
5F	9	0	9	105	8	97	305	10	295	240	3	237	0	0	0
5R	27	6	21	153	4	149	44	1	43	68	2	66	55	0	55
5S	202	3	199	380	4	376	460	7	453	529	9	520	146	61	85
6A	51	16	35	77	14	63	37	21	16	35	11	24	2	1	1
6B	1	1	0	0	0	0	1	1	0	8	8	0	3	2	1
7	0	0	0	49	2	47	1	0	1	0	0	0	37	1	36
8	266	7	259	270	32	238	455	39	416	229	21	208	371	13	358
9	403	27	376	379	31	348	169	19	150	147	30	117	160	16	144
<b>Total</b>	<b>1858</b>	<b>66</b>	<b>1792</b>	<b>2139</b>	<b>101</b>	<b>2038</b>	<b>1958</b>	<b>104</b>	<b>1854</b>	<b>1515</b>	<b>87</b>	<b>1428</b>	<b>949</b>	<b>101</b>	<b>848</b>
<b>%</b>		<b>4%</b>	<b>96%</b>		<b>5%</b>	<b>95%</b>		<b>5%</b>	<b>95%</b>		<b>6%</b>	<b>94%</b>		<b>11%</b>	<b>89%</b>

# Violations Subject to MMPs

Table 11: Status of Violations Subject to MMPs from January 2000 to December 2007

Violations Subject to MMPs - January 2000 to December 2007				
Regional Office	Total MMP Violations	Violations With MMP Enforcement	Violations Without Completed MMP Enforcement	% Without
1	2,318	1,367	951	41%
2	1,874	1,265	609	32%
3	826	582	244	30%
4	5,041	1,281	3,760	75%
5F	1,532	677	855	56%
5R	162	112	50	31%
5S	4,357	1,938	2,419	56%
6A	0	0	0	N/A
6B	15	5	10	67%
7	775	447	328	42%
8	1,667	1,376	291	17%
9	635	560	75	12%
<b>TOTAL</b>	<b>19,202</b>	<b>9,610</b>	<b>9,592</b>	<b>49%</b>

# Enforcement Effectiveness

- Gross numbers of violations can be misleading - more information is needed about violations
- MMPs are effective in reducing violations
- MMPs are often not issued in a timely manner
- Workload for addressing MMP backlog is substantial
- Effectiveness analysis is complicated by data quality and completeness, particularly for most recent calendar year

# Enforcement Approach

- Regional Water Board Enforcement Coordinators and Enforcement Units
- Office of Enforcement
- Revision of the Water Quality Enforcement Policy
- Baseline Enforcement Report

# Recommendations for Improvement

- Propose revision of the January 1 reporting deadline for the previous year's data to allow for more complete reporting of this data.
- Revise the Water Quality Enforcement Policy to ensure it is clear, current, and ensures compliance with existing permits and basin plans.
- Standardize NPDES permitting to increase certainty and expectations for staff and dischargers, and to restore efficiency and performance to these efforts.
- Standardize the issuance of MMPs to maximize efficiency and minimize the resource impacts of these new requirements.
- Continued development of electronic submittal and analysis of monitoring reports, and automated generation and tracking of violation information.

# Recommendations for Improvement

- Development of public reporting of violations and compliance rates of dischargers, both as a disincentive to violate and to build partnerships in enforcement with public interest groups and interested communities. This includes development and public reporting of enforcement performance measures on the Internet to engage the public in a productive dialogue about discharger performance, environmental effects, Water Board workload, and Water Board performance.
- Issuance of an annual enforcement report that expands upon the reporting in this document, and includes an analysis of available enforcement resources, violation and enforcement data for all of our regulatory programs, and development of enforcement performance measures.
- Conduct an assessment of violations at federal facilities, and discuss the findings and recommendations with USEPA.
- Ensure the data reports presented above are available for live, public use on the Internet.