

BASELINE ENFORCEMENT REPORT FOR 2006 -2007

**State Water Resources Control Board
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Overarching Questions

- **Are regional enforcement activities addressing the most serious water quality threats in the respective regions?**
- **Looking at the resources devoted to each of its core regulatory programs, do the Water Boards have the right percentage of resources devoted to enforcement actions?**
- **Are the Water Boards successfully using all of the tools in their enforcement toolbox to compel compliance?**

Questions (continued)

- **Are the Water Boards using the appropriate measures for performance to evaluate their core regulatory programs, including but not limited to, enforcement?**
- **Are the Water Boards getting the maximum deterrent impact from their formal enforcement activities?**
- **Are the supplemental environmental projects accepted by the Regional Boards in settlement of administrative penalty cases strategically evaluated and designed to address the most important environmental issues within the region?**

GOALS OF THE REPORT

- Illustrate the challenges faced by the Water Boards in bringing appropriate enforcement to ensure compliance.
- Recommend improvements to the Water Boards' enforcement capabilities.
- Identify the resources available for core regulatory enforcement and the enforcement actions achieved with those resources.
- Recommend metrics to measure the future effectiveness of the Water Boards' enforcement functions.
- Provide descriptive statistics on compliance and enforcement activities.

Deterrence-Based Enforcement Deconstructed

- **Compliance occurs when the costs of non-compliance outweigh the benefits of non-compliance**
- **Penalties must be high enough and the Probability of Detection great enough to make violations irrational**

Benefits of Deterrence-based Enforcement

- **Strong enforcement is essential to the credibility of environmental requirements**
- **Promotes compliance**
- **Fosters equitable treatment of regulated community**
- **Enhances public trust in government**

STAFF RESOURCES

- **95 Regional Compliance staff**
- **78 Regional Enforcement staff**
- **15 State board enforcement staff**
(including 4.4 PY for UST enforcement
and 3 PY for attorneys)

ENFORCEMENT OUTPUTS

- **800 Informal enforcement actions**
- **1300 Formal enforcement actions**
- **111 Administrative civil liability actions**
 - **\$4.35 million in administrative civil liabilities**
 - **\$8.07 in Supplemental Environmental Projects or Compliance Projects**

RECOMMENDATIONS

- **Create procedural consistency in Regional Water Board enforcement proceedings;**
- **Prioritize enforcement actions to address the most serious threats to water quality;**
- **Develop minimum training requirements for inspection and enforcement staff;**
- **Increase inspector field presence;**

RECOMMENDATIONS (cont'd)

- **Evaluate the role of citizen enforcement of the California Water Code to reduce water quality violations;**
- **Evaluate the impact of establishing minimum penalties for California Water Code violations;**
- **Create a dedicated enforcement staff and budget;**
- **Evaluate the increased use of the Attorney General's Office, district attorneys, and city attorneys in enforcement actions;**

RECOMMENDATIONS (cont'd)

- Prioritize MMP-related violations for enforcement to reduce the backlog of these enforcement cases commencing in calendar year 2008 consistent with the recommendations contained in the 2007, 13385 Report;
- Evaluate updating of statutory penalty limits to address inflation;
- Use enforcement tools to compel participation in key Water Board regulatory programs (such as the Irrigated Lands Regulatory Program);

RECOMMENDATIONS (cont'd)

- **Develop a uniform mechanism for tracking illegal discharges that do not fall within one of the current regulatory programs, and the actions taken to address those illegal discharges.**
- **Encourage flexibility in the allocation of resources to focus on specific regional and statewide issues, 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.**

COMPARISON OF ENFORCEMENT ACTIONS

- **FY 2006 Water Board Enforcement (all cases)**

- **\$12.42 million total liability**
- **\$ 4.35 million in costs and penalties (35% of total monetary assessment)**
- **\$ 8.07 million for Supplemental Environmental Projects (SEPs) or compliance projects (65% of total monetary assessment)**

- **People v. at&t (UST violations)**

- **\$25 million total liability**
- **\$15.5 million in costs and penalties (72% of total monetary assessment)**
- **\$2.5 million in suspended penalties to induce compliance**
- **\$2.5 million for training programs for enforcement agencies (SEPs)(10% of total monetary assessment)**
- **\$4.5 million for compliance enhancement program (18% of total monetary assessment)**
- **Additional Injunctive Relief**

GOALS OF THE REPORT

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

Resources

Activities

Outputs

Outcomes

- Staff
- Contracts \$
- Tools (vehicles, monitoring, surveillance, laboratory..)
- Management
- Champions

- Compliance checking
- Review reports
- Inspect facilities
- Complaint response
- Take enforcement actions
- Manage data
- Training

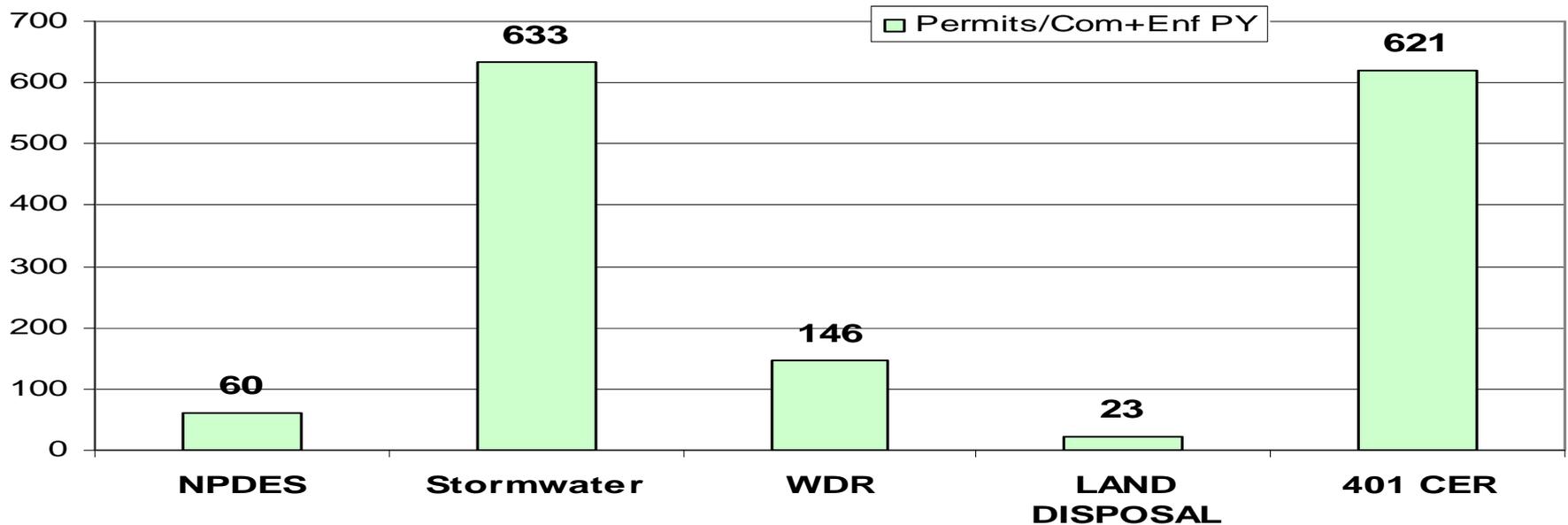
- Facilities inspected
- Reports reviewed
- Compliance assessed
- Enforcement actions
- Penalties assessed
- Information provided

- Information used
- Compliance rates
- Enforcement response
- Pounds of pollutants
- Injunctive relief
- Environment restored
- Deterrence

Measure Name	Measure Description
A. Self-Monitoring Report Evaluation	Number of self-monitoring reports due, received and reviewed and percentage of reports reviewed
B. Inspection Monitoring	Number of inspections and percentage of facilities inspected
C. Compliance Rates	The percentage of facilities in compliance based upon the number of facilities evaluated
D. Enforcement Response	Percentage of facilities in violation receiving an enforcement action requiring compliance
E. Enforcement Activities	Number and type of enforcement actions
F. Penalties Assessed and Collected	Amount of penalties assessed and collected, SEPs approved and injunctive relief
G. MMP Violations Addressed	Number of facilities with MMP violations receiving a penalty at or above the minimum penalty assessed
H. Recidivism	Number and percentage of facilities returning to non-compliance for the same violation(s) previously addressed through an enforcement action
I. 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 miles protected/restored (acres, etc.)

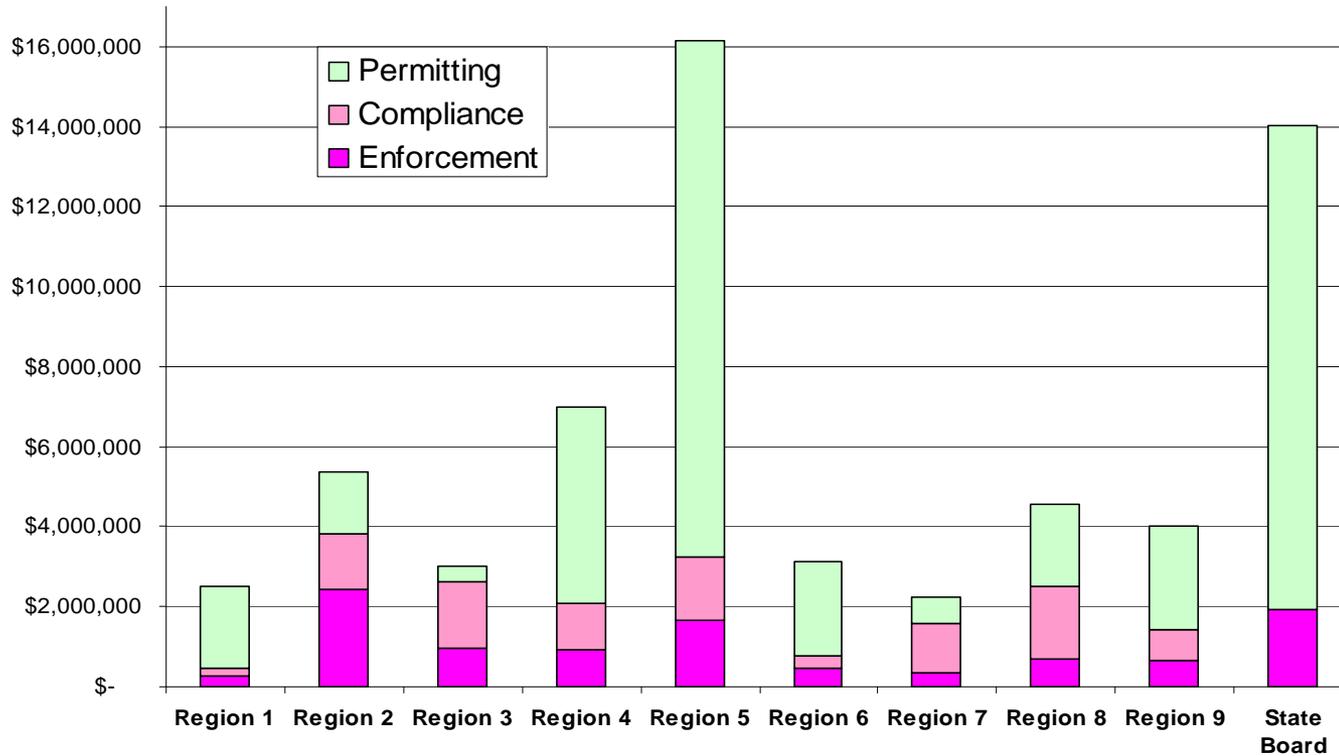
How many permits for each compliance and enforcement staff?

Permits per Compliance and Enforcement PY by Program
FY 2006-2007



- Significant variability among programs and regions

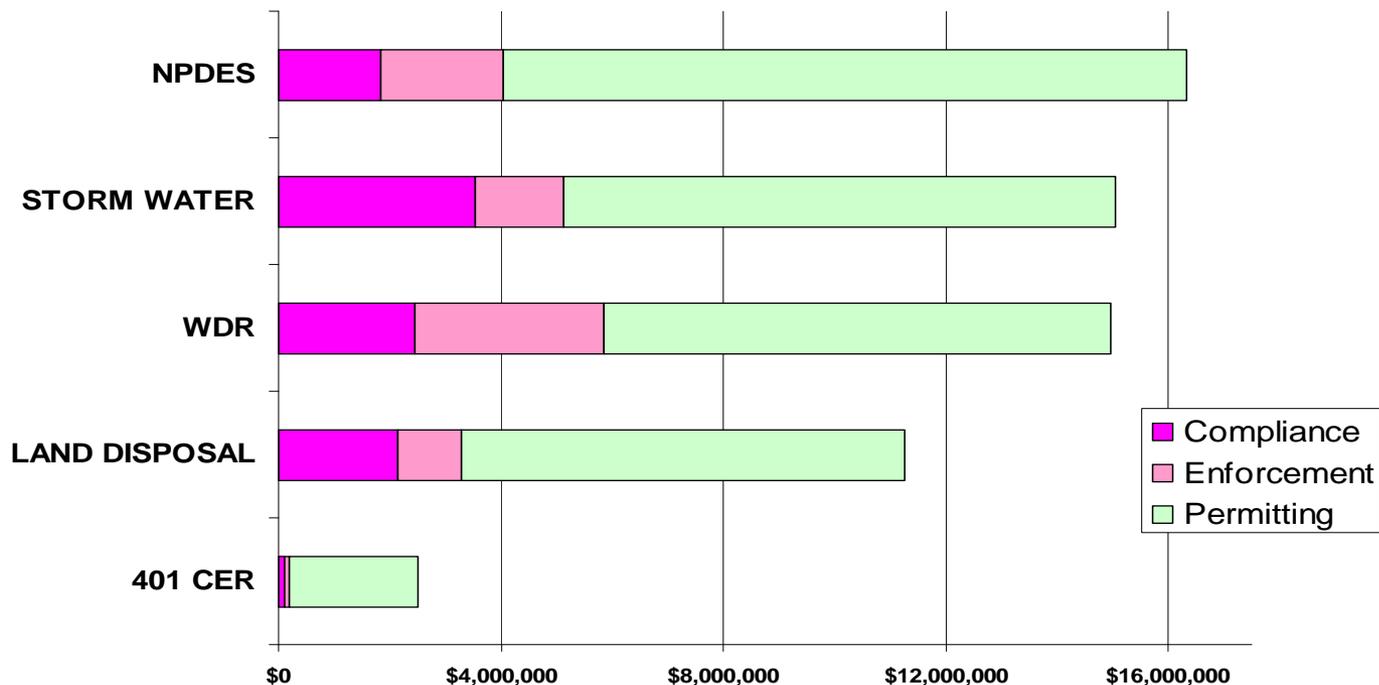
Five Core Regulatory Programs Expenditures by Region FY 2006-2007



- Use of compliance and enforcement resources varies significantly among organizations

Resources by program

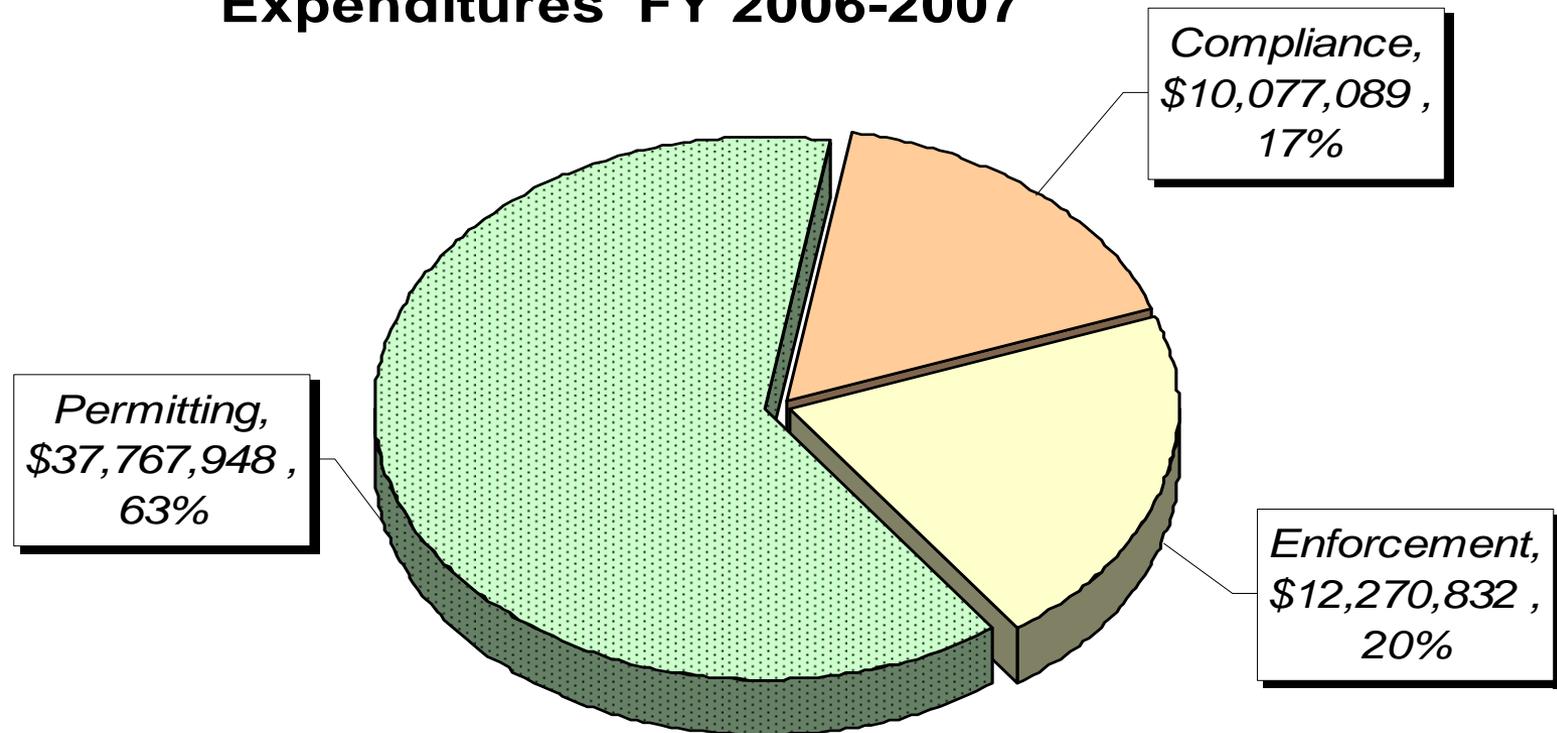
Statewide, Five Core Regulatory Programs Expenditures FY 2006-2007



- Significant variability in resource distribution by program

Distribution of Resources by Activity Type

Statewide, Five Core Regulatory Programs Expenditures FY 2006-2007

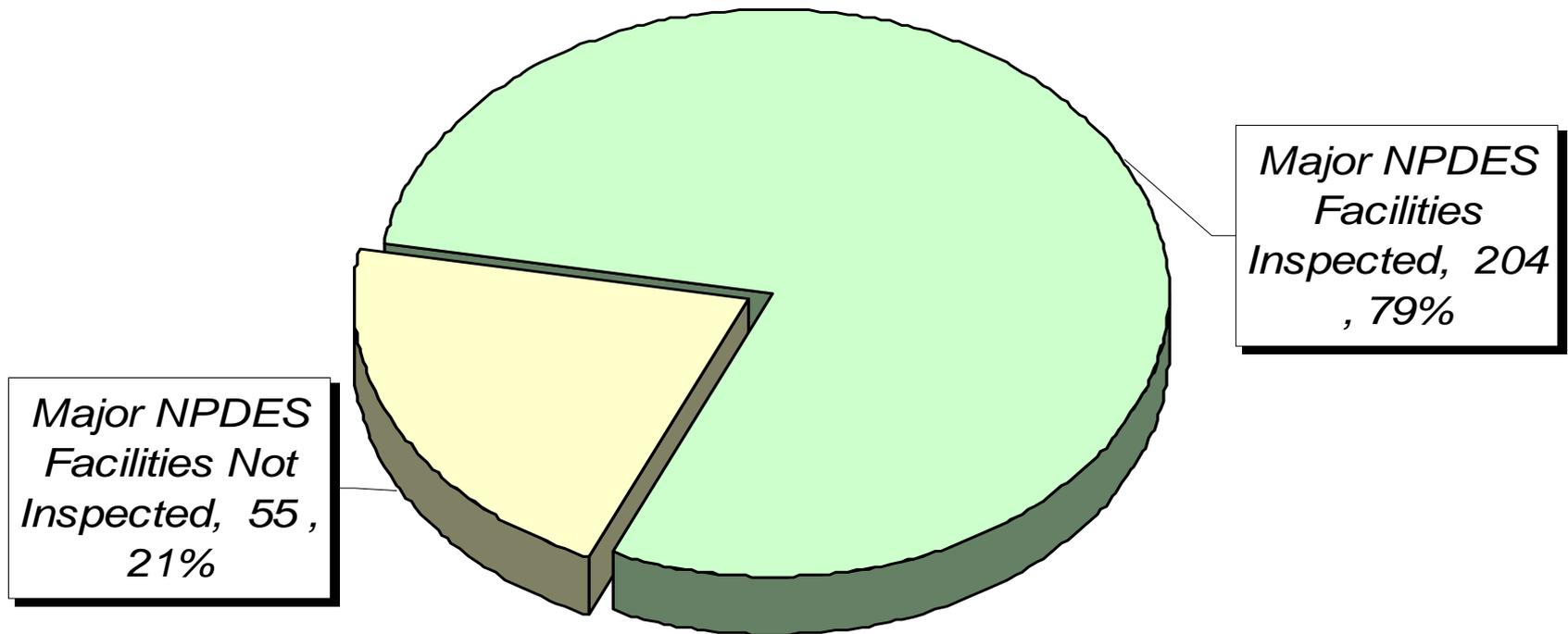


STAFF RESOURCES

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Compliance Activities, Inspections (Major NPDES)

Statewide, NPDES Major Facilities Inspected FY 2006-2007



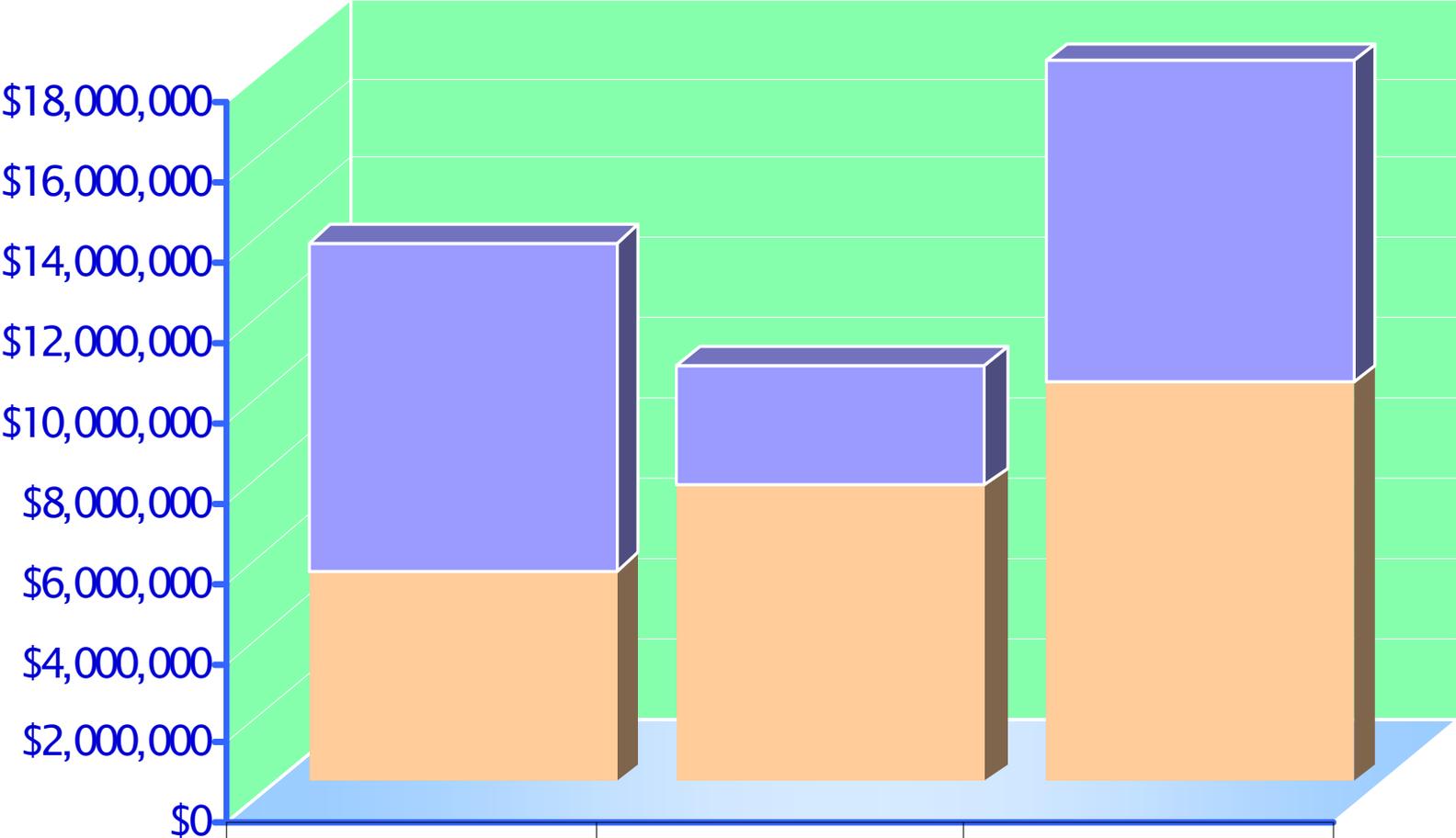
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Liabilities and Projects Assessed 2005-2007

■ Liabilities

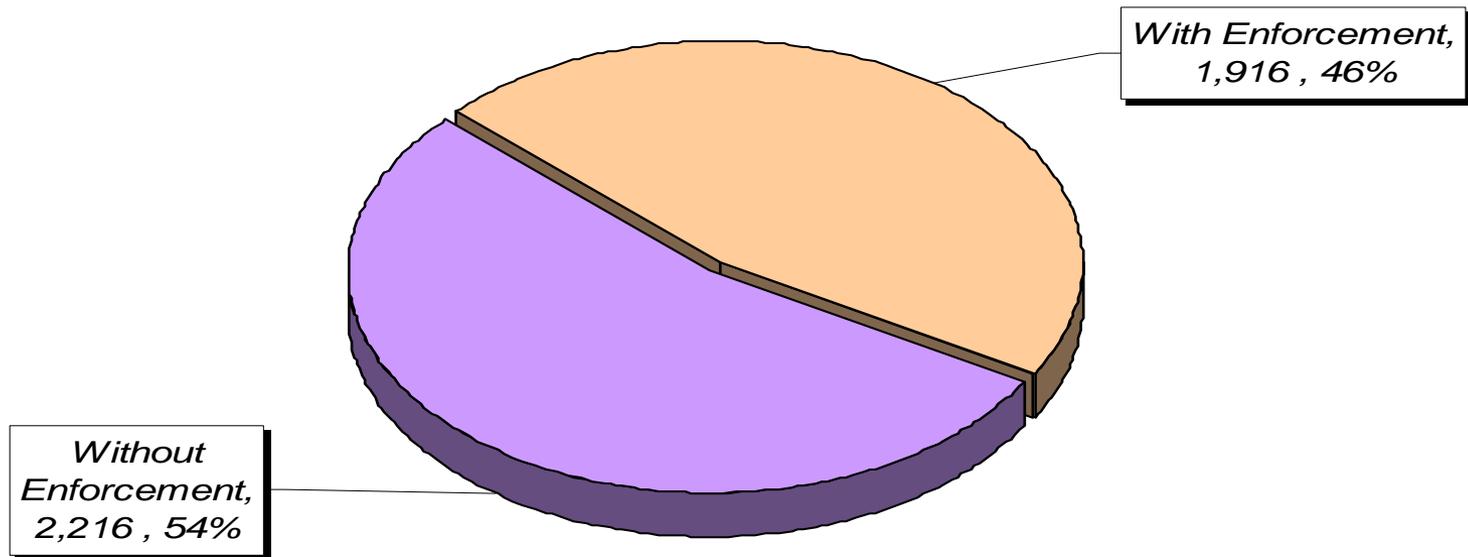
■ Suspended



■ Liabilities	\$8,195,846	\$2,967,574	\$8,008,394
■ Suspended Projects	\$5,218,372	\$7,381,761	\$9,942,277

Enforcement Response (violations receiving enforcement)

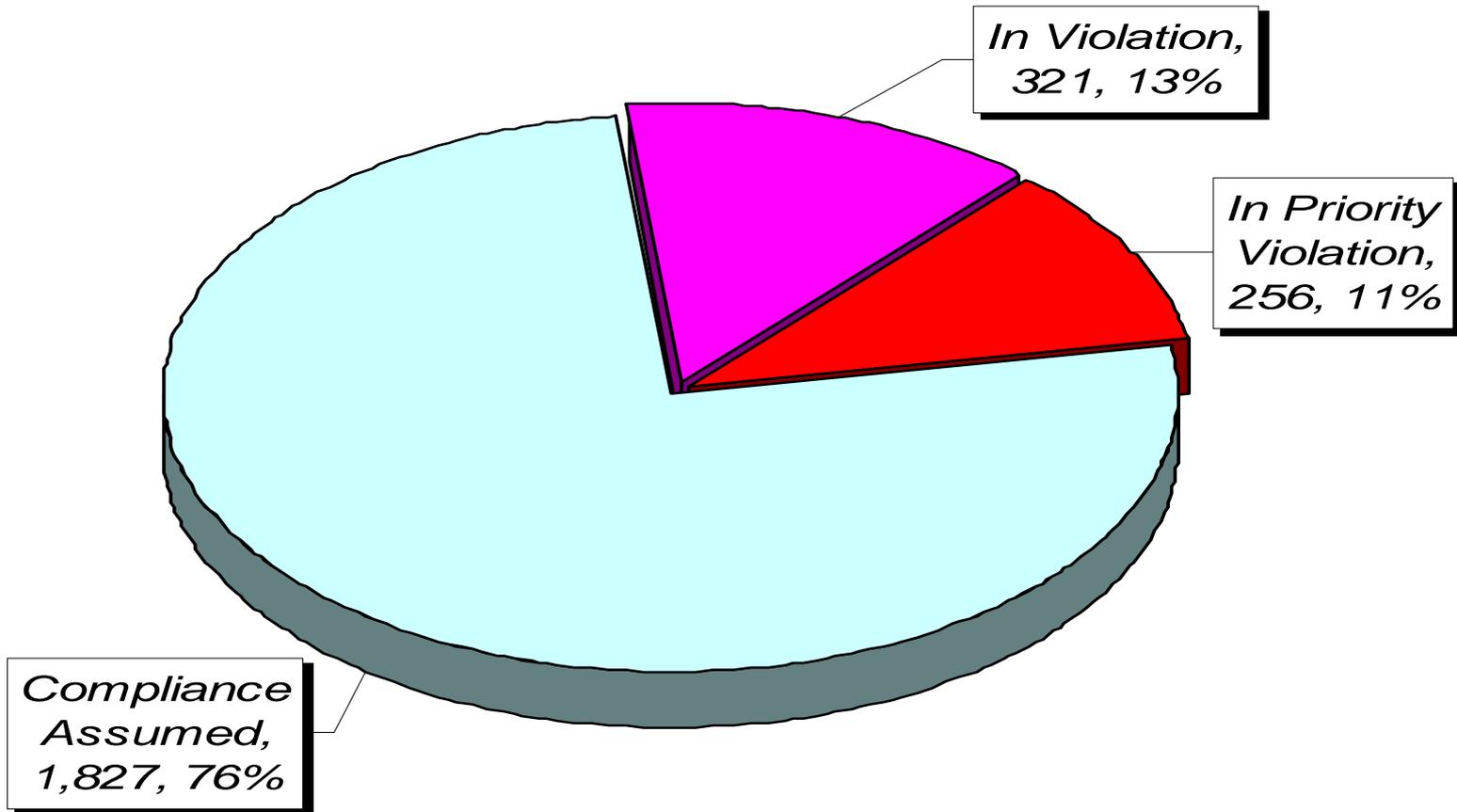
**Statewide, ENFORCEMENT RESPONSE
NPDES Violations Receiving Enforcement
FY 2006-2007**



- Different enforcement response by region and program

Compliance Rates

NPDES Program Compliance Rates FY 2006-2007

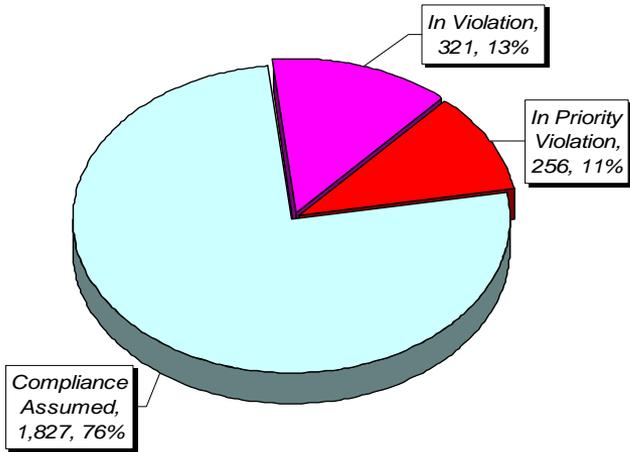


COMPLIANCE RATES FY 2006/2007

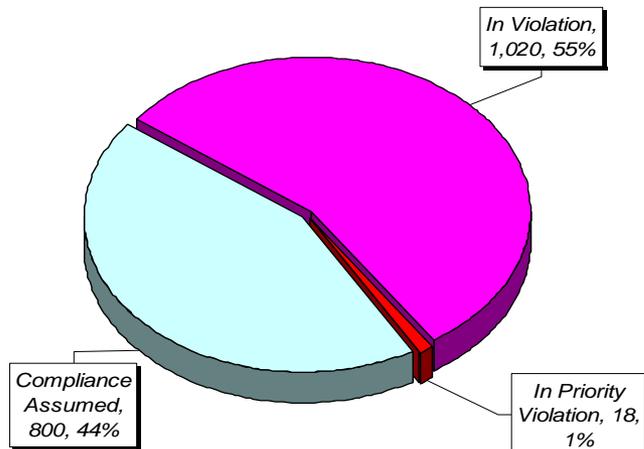
PROGRAM	Number of facilities with compliance assessed	Facilities with one or more violations in the period	Percentage of facilities in violation	Total violations	# of Facilities with 1-25 violations	# of Facilities with >25 violations
NPDES Wastewater	2,404	577	24%	4,509	550	27
NPDES Stormwater	1,838	1,038	56%	1,303	1,037	1
Waste Discharge Requirements	6,832	750	11%	4,361	721	29
Land Disposal	882	162	18%	277	161	1

Compliance Rates Four Core Programs

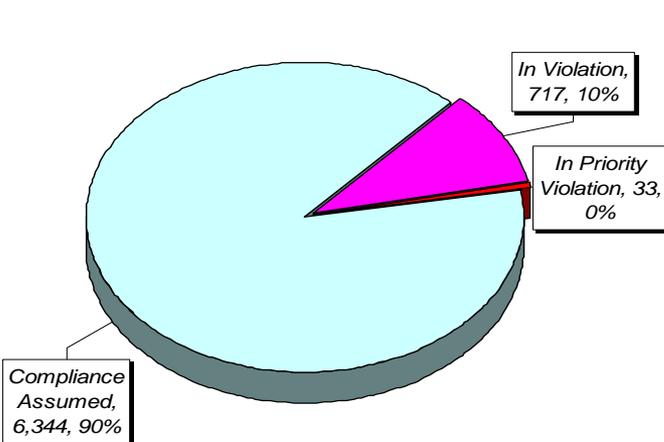
NPDES Program Compliance Rates
FY 2006-2007



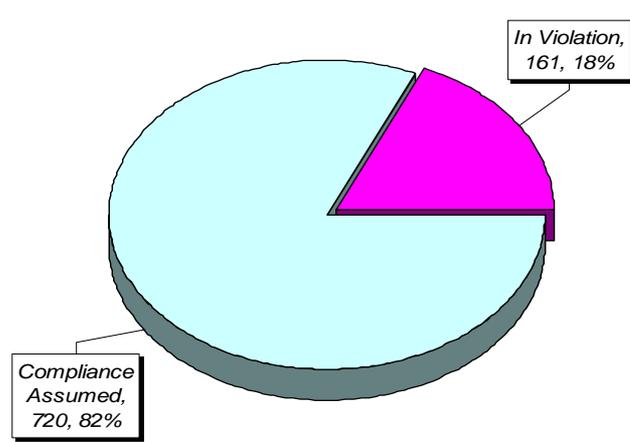
Stormwater Program Compliance Rates
FY 2006-2007



WDR Program Compliance Rates
FY 2006-2007



Land Disposal Program Compliance Rates
FY 2006-2007



Comments Addressed

- Errata Sheet
- Adjusted statistics
 - permits,
 - resources,
 - penalties, etc.
- Metrics definition and scope

RECOMMENDATIONS

- **Use proposed metrics to track, report and prioritize enforcement efforts;**
- **Ensure data is complete and accurate;**
- **Track self monitoring reports;**
- **Report compliance rates by facility type;**
- **Measure and report on the environmental benefits of enforcement; &**
- **Develop publicly accessible web based reports.**



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