

...working together



## Enforcement Actions for Water Quality Violations

The Water Boards can take enforcement actions for many types of violations, including whenever there is a violation of a permit condition, or a violation of a water quality standard at an unpermitted facility. The Boards have several enforcement options, including orders, fines, or judicial referrals.

For short-term cleanups, requiring immediate action, such as after a spill, an erosion problem, or a waste pond overflow, the Board uses **Cleanup and Abatement Orders (CAO)**. A CAO is usually issued directly by the Board's Executive Officer. The order lists specific actions that must be done by the discharger and a time schedule for those actions.

The Board can also issue a **Cease and Desist Order** for permit violations. This type of order is prepared by staff. The Board makes final decisions at a public hearing. These orders usually include time schedules for specific activities and sometimes set interim permit limits.

The Board has the authority to impose fines, called **Administrative Civil Liabilities (ACLs)**, if a discharger violates permit conditions, standards, or time schedules. ACLs can also be used for late or incomplete reports that were required to be submitted pursuant to a "13267" order which refers to an existing, suspected or planned discharge into state's waters. The amount of an ACL can be based on the volume of an illegal discharge (up to \$10 per gallon), the duration of an illegal discharge (up to \$10,000 per day), or on the length of time a report is late (up to \$1,000 per day).

To assess an ACL, staff prepare a complaint that notes the violations and proposes a fine. The discharger can either choose to pay the fine and waive a hearing before the Board, or proceed with a hearing. If there is a hearing, the Board can uphold staff's position or raise, lower, or dismiss the fine. In some cases, dischargers have proposed, and the Board has accepted, environmental projects in lieu of a portion of the fine. In these cases, a portion of the fine may be suspended until the project is completed. Payment of that portion of the fine may be canceled. It is Board policy that at least some portion of a fine be paid to the State even if there is an environmental project. Board staff time costs are usually recovered in the fine.

**Referral of a case** to the Attorney General or a District Attorney for prosecution in the courts, is the final option the Board has for enforcement. These kinds of cases can be either civil or criminal, and remedies include fines that are significantly higher than ACLs, injunctions, or in criminal cases, jail sentences.

Citizens may file suit to enforce permit conditions for any federal Clean Water Act permit the Board issues. Under this option, the citizen, or a group of citizens (such as environmental organizations), must give 60 days notice of intent to sue. If the Board takes an enforcement action during that time, it usually negates the citizen action. If the Board chooses not to pursue enforcement, then the citizen suit can proceed.