

ATTACHMENT 1

Enforcement Action	Description of Enforcement Action
Administrative Civil Liability (ACL) Complaint(s)	<p>Under the authority of the California Water Code (CWC), the State or Regional Water Boards may issue administrative civil liability (ACL) Complaints when a discharger has allegedly caused a violation. For example, ACL Complaints may be issued when a discharger (1) violates permit requirements, (2) submits late or incomplete reports, (3) falsifies or withholds information, (4) fails to meet time schedules, or (5) causes an unauthorized waste discharge to surface water or groundwater. The first step in this formal enforcement process is the issuance of an ACL Complaint by the Water Board's Assistant Executive Officer. The ACL Complaint describes the violations that are alleged, the CWC provisions authorizing the imposition of liability, and the evidence that supports the allegations. The ACL Complaint includes a proposed penalty that is established by following the ACL penalty calculation methodology included in the State Water Board Water Quality Enforcement Policy. The ACL penalty calculation methodology only applies to discretionary ACLs. Mandatory Minimum Penalties (MMPs) are required for specified violations of NPDES permits as described in CWC Section 13385, subdivisions (h) and (i), section 13399, and Chapter VII of the Enforcement Policy. The penalty associated with MMPs are fixed.</p> <p>Upon receipt of an ACL Complaint, the discharger may waive its right to a public hearing and pay the liability; negotiate a settlement; or appear at a Board hearing to dispute the ACL Complaint. It is the policy of the Water Board that a 30-day public comment period shall be posted on the Board's website prior to the settlement or imposition of any ACL, including MMPs, and prior to settlement of any judicial civil liabilities. All such actions are posted on our website for 30 days. See http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/index.shtml for current postings. If the discharger waives its right to a public hearing and pays the liability, a third party may still comment on the ACL Complaint at any time during the public comment period. Following review of the comments, the Executive Officer or his delegate may withdraw the ACL Complaint. An ACL Complaint may be redrafted and reissued as appropriate. If there are no proposed changes to the ACL Complaint after the 30-day public comment period, the ACL Complaint is sent to the Executive Officer as an ACL Order for signature. After the Executive Officer signs the ACL Order it becomes final.</p>
Administrative Civil Liability (ACL) Order(s)	<p>Once the Executive Officer or Water Board issues the ACL Order, the Order imposing the ACL becomes effective and payment of the penalty is required 30 days from the date on which the order is issued. As stated in Resolution No. R3-2014-0043, the Water Board delegated to its Executive Officer the authority to settle matters of discretionary ACLs in amounts not exceeding \$300,000 on behalf of the Water Board. The Water Board also delegated its Executive Officer the authority to act on behalf of the Water Board as a hearing officer to hold evidentiary hearings and issue orders concerning MMP ACLs in any amount.</p> <p>The discharger may petition the ACL Order. The petition must be received by the State Water Board within 30 days of the Water Board action. Actions taken by the Executive Officer, pursuant to authority delegated by the Water Board, are considered final actions by the Water Board and are also subject to the 30-day time limit. When a petition is filed with the State Water Board challenging an ACL assessment, the assessment is not due or owed during the State Water Board review of the petition. In all other cases, the filing of a petition does not stay the obligation to comply with the Water Board Order.</p>
Cleanup and Abatement Orders	<p>Cleanup and Abatement Orders (CAOs) are adopted pursuant to CWC section 13304. CAOs may be issued to any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a Water Board or the State Water Board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the State and creates, or threatens to create, a condition of pollution or nuisance (discharger). The CAO requires the discharger to clean up the waste or abate the effects of the waste, or both, or,</p>

	in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.
Proposed and Settled Expedited Payment Program Letters (EPLs)	An Expedited Payment Program Letter (EPL) is a conditional offer that provides a discharger with an opportunity to resolve any outstanding violations subject to MMPs by acknowledging them and providing full payment of the accrued mandatory penalties identified in the payment letter. The discharger can avoid the issuance of a formal ACL Complaint and settle the alleged violations identified in an NOV that is included with the EPL by participating in the expedited payment program. By settling the MMPs through the expedited payment program, Water Board enforcement staff will forego issuance of a formal ACL Complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NOV. The expedited payment program does not address liability for any violation that is not specifically identified in the NOV. Once the discharger signs the acceptance and waiver form, the EPL is posted for a 30-day public comment period. If no comments are received within the 30-day period, and unless there are new material facts that become available, the Executive Officer will execute the Acceptance and Waiver as a settlement agreement and stipulation for entry of administrative civil liability order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code section 13385 or 13399. In lieu of paying to the State Water Board Cleanup and Abatement Account all of the MMPs, the discharger may elect to use part of the penalty to fund the Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection Supplemental Environmental Project.
Notices of Stormwater Noncompliance (NNCs)	Notices of Stormwater Noncompliance (NNCs) - The Stormwater Enforcement Act of 1998 (Wat. Code, § 13399.25 et seq.) requires that each Water Board provide a notice of noncompliance to any stormwater dischargers who have failed to file a notice of intent to obtain coverage, a notice of non-applicability, a construction certification, or annual reports. If, after two notices, the discharger fails to file the applicable document, the Water Board typically issues an EPL or ACL Complaint against the discharger.
Notice of Violations (NOVs)	The Notice of Violation (NOV) letter is the most significant level of <u>informal</u> enforcement action and is used only where a violation has actually occurred. The NOV letter shall include a description of specific violation, a summary of potential enforcement options available to address noncompliance (including potential ACL assessments), and a request for a certified, written response by a specified date that either confirms the correction of the violation or identifies a date by which the violation will be corrected. The NOV can be combined with a request for technical information pursuant to CWC section 13267 and/or 13383. The summary of potential enforcement options must include appropriate citations to the CWC and must specify that the Water Board reserves the right to take any enforcement action authorized by law. When combining NOVs and CWC section 13267 requests, it should be noted that only requests made pursuant to section 13267 are petitionable to the State Water Board.
Time Schedule Orders (TSOs)	Section 13300 Time Schedule Orders (TSOs) - Pursuant to CWC section 13300, a Water Board can require the discharger to submit a time schedule that sets forth the actions the discharger will take to address actual or threatened discharges of waste in violation of requirements. Typically, those schedules, after any appropriate adjustments by the Water Board, are then memorialized in an order. Section 13308 TSOs - CWC section 13308 authorizes the Water Board to issue a Section 13308 TSO that prescribes, in advance, a civil penalty if compliance is not achieved in accordance with the time schedule. The Water Board may issue a 13308 TSO if there is a threatened or continuing violation of a cleanup and abatement order, cease and desist order, or any requirement issued under CWC sections 13267 or 13383. The penalty must be set based on an amount reasonably necessary to achieve compliance and may not contain any amount intended to punish or redress previous violations. The 13308 TSO provides the Water Boards with their primary mechanism for motivating compliance, and if necessary, assessing monetary penalties against federal facilities. Orders under this section are an important tool for regulating federal facilities.
Cease and Desist Orders (CDOs)	Cease and Desist Orders (CDOs) – These orders are adopted pursuant to CWC sections 13301 and 13303. CDOs may be issued to dischargers violating or threatening to violate WDRs or prohibitions prescribed by the Water Board or the State Water Board.

Additional information on violations, enforcement actions, and mandatory minimum penalties is available to the public from the following on-line sources:

State Water Board Office of Enforcement webpage:

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

California Integrated Water Quality System (CIWQS):

http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml

State Water Board GeoTracker database:

<https://geotracker.waterboards.ca.gov/>