

ENFORCE

NPDES WASTEWATER

GROUP: NPDES WASTEWATER FACILITIES

MEASURE: PENALTIES

MESSAGE: *Substantial penalties were assessed in FY 08-09. Of that amount, almost 50% has thus far been collected.*

KEY STATISTICS FOR FY 2008-09

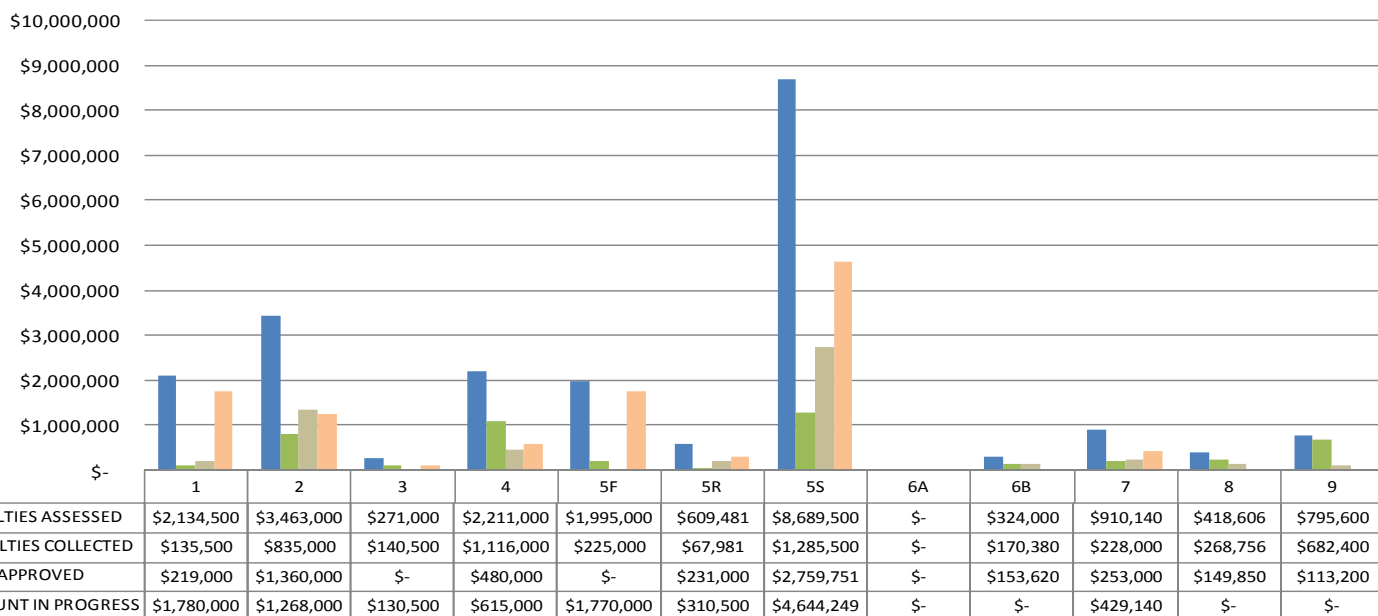
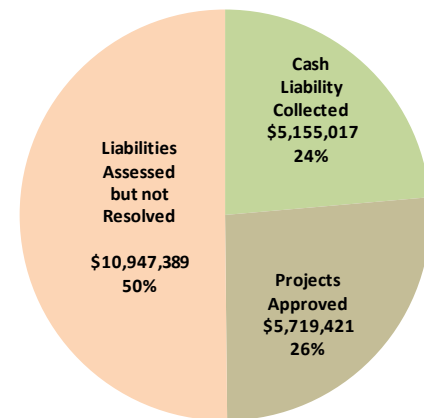
PENALTIES ASSESSED: \$21,821,827

PENALTIES COLLECTED: \$5,155,017

SEPS/PROJECTS APPROVED: \$5,719,421

MEASUREMENTS:

| Region | Number of Administrative Civil Liability Actions | Total Liability Assessed | Cash Liability Collected | Projects Approved | Percentage of Liabilities Remaining to be Resolved |
|--------------|--|--------------------------|--------------------------|---------------------|--|
| 1 | 11 | \$ 2,134,500 | \$ 135,500 | \$ 219,000 | 83.4% |
| 2 | 30 | \$ 3,463,000 | \$ 835,000 | \$ 1,360,000 | 36.6% |
| 3 | 11 | \$ 271,000 | \$ 140,500 | - | 48.2% |
| 4 | 54 | \$ 2,211,000 | \$ 1,116,000 | \$ 480,000 | 27.8% |
| 5 | 86 | \$ 11,293,981 | \$ 1,578,481 | \$ 2,990,751 | 59.5% |
| 6 | 1 | \$ 324,000 | \$ 170,380 | \$ 153,620 | 0.0% |
| 7 | 12 | \$ 910,140 | \$ 228,000 | \$ 253,000 | 47.2% |
| 8 | 6 | \$ 418,606 | \$ 268,756 | \$ 149,850 | 0.0% |
| 9 | 10 | \$ 795,600 | \$ 682,400 | \$ 113,200 | 0.0% |
| TOTAL | 221 | \$ 21,821,827 | \$ 5,155,017 | \$ 5,719,421 | 50.2% |



WHAT THE MEASURE IS SHOWING:

During fiscal year 2008-2009 a significant number of Administrative Civil Liability actions were issued under the NPDES program in response to the [2008 MMP initiative](#). This large number of actions assessed a significant amount in penalty liability of which approximately half has thus far been resolved. Of the liability amount thus far resolved, half contributed to approved compliance and supplemental environmental projects and half was collected as direct



payments into the Cleanup and Abatement Account or into the Waste Discharge Permit Fund. It also significant to point out the large number of cases that remain in progress.

WHY THIS MEASURE IS IMPORTANT:

California law and the Water Boards enforcement policy establishes the circumstances for which violations must receive a penalty and in what amount. In certain cases, the Water Boards have the discretion of imposing administrative civil liabilities after considering certain factors. For other types of violations, mandatory minimum penalties must be imposed and settlement conditions for those violations are also limited. The Regional Boards must consider whether the discharger should be allowed to satisfy some or all of the monetary assessment by completing or funding one or more compliance or supplemental environmental projects or by depositing the penalty amount in a specified fund. Preparing each case for prosecution requires a significant amount of time and resources. This measure describes a significant workload for the enforcement program.

TECHNICAL CONSIDERATIONS:

- Data Source: CIWQS. Period July 1, 2008 to June 30, 2009. Extracted on August 15, 2009.
- Unit of Measure: Number of enforcement actions and penalties assessed during FY 08-09 and the progress of those penalties.
- Data Definitions: **Penalties Assessed:** Amounts assessed in an ACL complaint or order. **Penalties Resolved:** Amount of penalties assessed that have been either paid or approved as a SEP. ACL report available at: <http://ciwqs.waterboards.ca.gov/ciwqs/readOnly/aclReport.jsp>
- Enforcement and compliance assurance information is available at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/
- The Water Boards' enforcement policy is also available at: http://www.waterboards.ca.gov/plans_policies/docs/wqep.doc
- State Water Board SEP Policy: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/rs2009_0013_sep_finalpolicy.pdf

GLOSSARY:

Supplemental Environmental Project

Supplemental environmental projects *are* defined as **environmentally beneficial projects** which a defendant/respondent agrees to undertake in **settlement of an enforcement** action, but which the defendant/respondent is **not** otherwise **legally required to perform**. Environmentally beneficial means a SEP must improve, protect, or reduce risks to public health, of the environment at large. While in some cases a SEP may provide the alleged violator with certain benefits, there must be no doubt, that the project primarily benefits the public health or the environment

Compliance Project

A Compliance Project (CP) is a project designed to address problems related to the violation and bring the discharger back into compliance in a timely manner. CPs can only be considered where they are authorized by statute. At this time, CPs are authorized by statute only in connection with MMPs if the POTW serves a small community with a financial hardship.