

ENFORCE

NPDES STORMWATER

GROUP: NPDES STORMWATER FACILITIES

MEASURE: PENALTIES

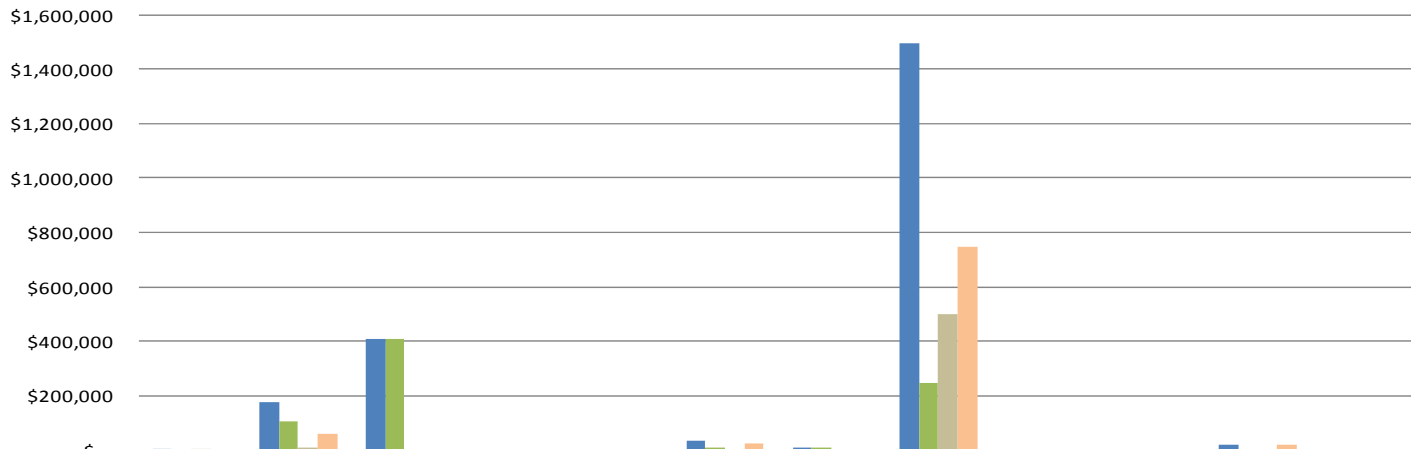
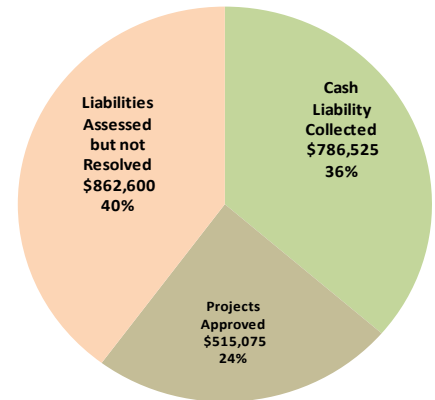
MESSAGE: *Of the penalty cases settled, 60% of penalties assessed have been collected and 40% resolved with projects.*

KEY STATISTICS FOR FY 2008-09

PENALTIES ASSESSED: \$2,164,200
 PENALTIES COLLECTED: \$786,525
 SEPS/PROJECTS APPROVED: \$515,075

MEASUREMENTS:

Region	Number of Administrative Civil Liability Actions	Total Liability Assessed	Cash Liability Collected	Projects Approved	Percentage of Liabilities Remaining to be Resolved
1	1	\$ 5,000	\$ -	\$ 5,000	0.0%
2	10	\$ 178,200	\$ 105,025	\$ 10,075	35.4%
3	3	\$ 411,000	\$ 411,000	\$ -	0.0%
4	1	\$ -	\$ -	\$ -	N/A
5	5	\$ 50,000	\$ 20,500	\$ -	59.0%
6	1	\$ 1,500,000	\$ 250,000	\$ 500,000	50.0%
7	-	\$ -	\$ -	\$ -	N/A
8	4	\$ 20,000	\$ -	\$ -	100.0%
9	-	\$ -	\$ -	\$ -	N/A
TOTAL	25	\$ 2,164,200	\$ 786,525	\$ 515,075	39.9%



	1	2	3	4	5F	5R	5S	6A	6B	7	8	9
■ PENALTIES ASSESSED	\$5,000	\$178,200	\$411,000	\$-	\$2,000	\$38,000	\$10,000	\$1,500,000	\$-	\$-	\$20,000	\$-
■ PENALTIES COLLECTED	\$-	\$105,025	\$411,000	\$-	\$-	\$10,500	\$10,000	\$250,000	\$-	\$-	\$-	\$-
■ SEPS APPROVED	\$5,000	\$10,075	\$-	\$-	\$-	\$-	\$-	\$500,000	\$-	\$-	\$-	\$-
■ AMOUNT IN PROGRESS	\$-	\$63,100	\$-	\$-	\$2,000	\$27,500	\$-	\$750,000	\$-	\$-	\$20,000	\$-

WHAT THE MEASURE IS SHOWING:

During fiscal year 2008-2009, a significant number of Administrative Civil Liability actions were issued under the Stormwater program. This large number of actions also assessed a significant amount in penalties of which approximately forty percent were resolved with an approved supplemental environmental project and sixty percent with direct payments into the Cleanup and Abatement Account or into the Waste Discharge Permit Fund. It is also significant to point out the large number of cases that remain in progress and therefore the assessed amounts are not final.



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 the 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.
- References: More information on the Water Boards' Stormwater program is available at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/
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.