

ENFORCE

NPDES WASTEWATER

GROUP: NPDES WASTEWATER FACILITIES

MEASURE: ADMINISTRATIVE CIVIL LIABILITIES
ADDRESSING MANDATORY MINIMUM
PENALTIES
VIOLATIONS SUBJECT TO MANDATORY
MINIMUM PENALTIES ADDRESSED AND
PENDING

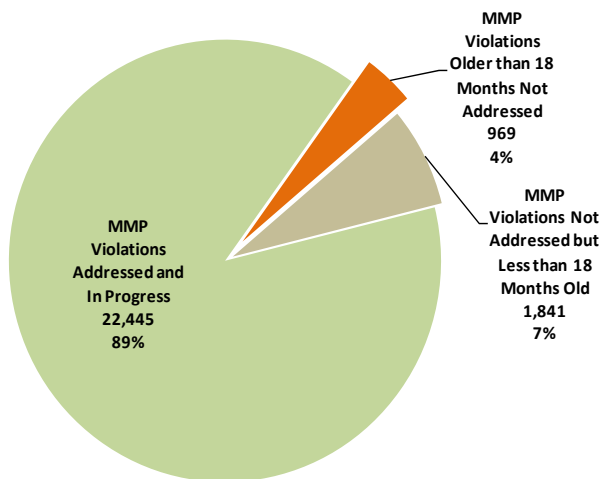
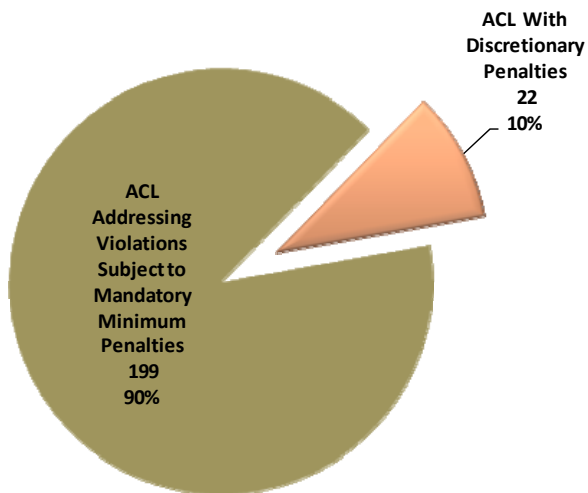
KEY STATISTICS FOR FY 2008-09

ACLs ADDRESSING MMP: 199
MMP VIOLATIONS ADDRESSED: 22,445
MMP VIOLATIONS PENDING: 2,810

MESSAGE: A very high percentage of MMP violations are addressed with a significant percentage of penalties assessed at the Mandatory Minimum.

MEASUREMENTS:

Region	Number of ACL Actions	Number of ACL Addressing MMPs	Percentage of ACLs Addressing MMPs	Total MMP Violations	MMP Violations Addressed and In Progress	MMP Violations Older than 18 Months Not Addressed	Percentage of MMP Violations Addressed
1	11	11	100%	1,634	1,533	47	93.8%
2	30	22	73%	1,728	1,548	174	89.6%
3	11	11	100%	822	708	74	86.1%
4	54	53	98%	9,573	8,403	339	87.8%
5	86	77	90%	8,320	7,391	157	88.8%
6	1	1	100%	174	99	40	56.9%
7	12	12	100%	1,101	875	127	79.5%
8	6	2	33%	1,036	1,025	11	98.9%
9	10	10	100%	867	863	0	99.5%
TOTAL	221	199	90%	25,255	22,445	969	88.9%



WHAT THE MEASURE IS SHOWING:

As a result of the 2008 MMP initiative, a significant percentage of MMP violations are being addressed. Most of the Administrative Civil Liabilities (ACLs) issued during fiscal year 2008-09 addressed MMP violations. Approximately 11% of MMP violations are pending. As of June 30, 2009, only 4% of MMP violations older than 18 months have not received a penalty at or above the mandatory minimum.

WHY THIS MEASURE IS IMPORTANT:

The Regional Boards do not have discretion in assessing penalties below the minimum for certain NPDES violations. For violations that are subject to mandatory minimum penalties, the Regional Boards must either assess an ACL for the mandatory minimum penalty or a greater amount. ACLs assessed at the mandatory minimum amount do not require consideration of all the factors required when imposing discretionary ACLs and require a lower level of effort. This measure tracks the prioritization of ACL actions (mandatory versus discretionary) and the associated workload for NPDES enforcement staff.

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 issued during FY 08-09. MMPs violations addressed include violations addressed in FY 08-09 and MMP violations addressed in previous fiscal years. MMP violations occurring since January 1, 2000.
- Data Definitions: **ACL:** Monetary penalties intended to address past violations. **ACL addressing MMPs:** An ACL that addresses violations subject to mandatory minimum penalties. **MMP Violation:** A violation subject to mandatory minimum penalties. **MMP violation addressed or in progress:** Those violations subject to mandatory minimum penalties that have settled an ACL or are in the process of being addressed with an expedited payment letter.
- References: More information on the Water Boards' NPDES program is available at: http://www.waterboards.ca.gov/water_issues/programs/npdes/
- Public reports and data are available at: http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml
- 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

GLOSSARY:**Mandatory Minimum Penalty**

Mandatory penalty provisions are required by California Water Code section 13385(h) and (i) for specified violations of NPDES permits. For violations that are subject to mandatory minimum penalties, the Regional Board must either assess an ACL for the mandatory minimum penalty or assess an ACL for a greater amount. California Water Code section 13385(h) requires that a mandatory minimum penalty of \$3,000 be assessed by the Regional Board for each serious violation. A serious violation is any waste discharge that exceeds the effluent limitation for a Group I pollutant by 40 percent or more, or a Group II pollutant by 20 percent or more. California Water Code section 13385.1 also defines a serious violation subject to MMP a failure to submit a compliance self monitoring report for each complete period of 30 days.