REPORT TO THE LEGISLATURE

CALENDAR YEAR 2000 STORM WATER ENFORCEMENT ACTIONS RELATED TO NON-SUBMITTAL OF ANNUAL REPORTS AND FAILURE TO OBTAIN A PERMIT

SUMMARY

Water Code section 13399.39 requires that the State Water Resources Control Board (SWRCB) report to the Legislature on May 1 each year summarizing the enforcement actions undertaken in the previous calendar year pursuant to the Storm Water Enforcement Act (Act) of 1998 (Water Code section 13399.25, et. seq.). The Act establishes specific notification and enforcement procedures to be implemented by the Regional Water Quality Control Boards (RWQCBs) to ensure compliance with storm water general permit requirements by industrial storm water dischargers. The Act also establishes reporting requirements for the SWRCB in order to inform the public and the Legislature concerning specified storm water enforcement activities. This report summarizes the actions taken by the RWQCBs during the year of 2000.

During 2000, the SWRCB and the RWQCBs continued the implementation and enforcement procedures of the Act for non-submittal of 1999 and 2000 annual reports (Tables 1 and 2). The RWQCBs issued 17 Administrative Civil Liabilities (ACLs) in 2000 to facilities that had failed to file 1999 annual reports after first and second warning letters (Notice of Violation [NOV]) had been sent in 1999. The RWQCBs also issued 1,646 first warning letters, 451 second warning letters, and 1 ACL to those facilities that failed to file their 2000 annual reports. Additional ACLs will be issued during 2001 for any facility that has not yet filed its 1999 and/or 2000 annual reports.

As required by the Act, the SWRCB has been publishing on its web site a list of the dischargers who have failed to submit their annual reports and the notification and enforcement actions taken by the RWQCBs with regard to the non-submittal of annual reports.

Due to resource constraints, the SWRCB was unable to complete the development of an automated system during 2000 to track RWQCBs' notification and enforcement actions against facilities that have failed to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) storm water permit. Resources have been identified for 2001, and it is expected that a comprehensive SWRCB effort to begin implementing the requirements of the Act will commence in the summer of 2001. In the meantime, RWQCBs have continued to identify potential non-filers using existing resources. In 2000, the RWQCBs issued 122 first warning letters and 15 second warning letters to dischargers who have failed to obtain coverage under the storm water permit. No ACLs were issued for failure to obtain coverage (Table 3).

ENFORCEMENT ACTIONS TAKEN IN 2000

1. Non-Submittal of Annual Reports (§13399.31).

   Under Section B.14 of the Industrial Activities Storm Water General Permit, the industrial facilities covered by the permit are required to submit an annual report by July 1 each year. The report is to summarize the discharger's compliance activities, including visual observations, sampling and analysis, and an evaluation of the discharger's storm water pollution prevention and monitoring programs.

   The Act requires the RWQCBs to (a) review the annual reports submitted by dischargers subject to the NPDES storm water permits; (b) identify the dischargers who have failed to submit the required annual report; (c) notify the dischargers of their noncompliance; and (d) impose penalties on those who fail to comply after being notified the second time by the RWQCB.

   In 2000, the SWRCB and RWQCBs redirected part of their existing storm water program resources to fully implement the notification, enforcement, and public reporting requirements related to non-submittal of annual reports. An automated annual report tracking system was developed in 1999 to ensure accuracy and efficiency in satisfying these requirements. The RWQCBs took the following actions:

   a. Issued 17 ACLs in 2000 against dischargers who failed to submit a 1999 annual report (Table 1).

   b. Mailed first warning letters in August 2000 to 1,646 facilities for failure to submit the 2000 annual report (Table 2).

   c. Mailed second warning letters in September 2000 to 451 facilities that failed to respond to the first warning letter within 30 days from the date the first warning letter was sent.

   d. Issued one ACL to a facility that failed to file a 2000 annual report (as many as 92 ACLs may be issued in 2001 [Table 2]).

Pursuant to the requirements established by section 13399.27, the SWRCB has made available to the public via its web site (www.swrcb.ca.gov) notification and enforcement information concerning non-submittal of annual reports.

2. Failure to Obtain Coverage under a Permit (Notice of Intent [NOI] Non-Filers) (§13399.3).

   The Act requires the RWQCBs to undertake reasonable efforts each year to identify dischargers of storm water who have not obtained coverage under an appropriate storm water NPDES permit. It requires those dischargers to submit to the RWQCB an NOI to obtain coverage or a notice of nonapplicability within 30 days of receiving

a notice from the RWQCB. The law also requires the RWQCBs to impose penalties on those dischargers who fail to submit NOIs after being notified the second time of noncompliance by the RWQCB.

Due to the large number of industrial and construction activities in the State and the lack of an effective statewide tracking system, it is extremely resource intensive to identify the NOI non-filers and to keep track of the notification and enforcement activities. As there were no additional available resources for these tasks, the RWQCBs in 2000 were only able to identify NOI non-filers through ongoing activities, such as inspections, informal enforcement actions, and public awareness (e.g., outreach to trade associations, working with local agencies, etc.) A total of 122 first warning letters and 15 second warning letters were issued to NOI non-filers (Table 3). The SWRCB has identified resources to develop a statewide electronic system to help RWQCBs identify NOI non-filers and track their notification and enforcement activities against those non-filers. The system is scheduled to be implemented in the later part of 2001. Some RWQCBs, especially the Los Angeles RWQCB, have developed lists of potential non-filers to be used when the non-filer tracking system is completed.

CONCLUSION

The SWRCB and RWQCBs are actively implementing the requirements of the Act. In 2000, 1,646 (or 17 percent) of a total of 9,675 facilities failed to submit annual reports. The first and second warning letters were sent to those facilities in 2000, and ACLs will be issued in 2001 against the facilities that continue to be in violation after the second warning letter was issued. Although our non-filer efforts have had a slow start due to resource constraints, resources are available for a comprehensive non-filer effort to begin in the second half of 2001.

Table 1: 1999 Year 2000 Enforcement Summary
(For Non-Submittal of 1999 Annual Report)

Region	Annual Report Not Received[1]	ACL[2]	Penalty Assessed	Penalty Paid[3]
1	2	0	$0.00	$0.00
2	0	0	$0.00	$0.00
3	5	1	$4,500.00	$0.00
4	57	0	$0.00	$0.00
5	10	11	$26,000.00	$4,000.00
6	0	0	$0.00	$0.00
7	0	0	$0.00	$0.00
8	1	5	$13,000.00	$0.00
9	1	0	$0.00	$0.00
Total	76	17	$43,500.00	$4,000.00

Table 2: Year 2000 Enforcement Summary
(For Non-Submittal of 2000 Annual Report)

Region	1st NOV[4]	2nd NOV	Annual Report Not Received	ACL	Penalty Assessed	Penalty Paid
1	47	17	14	0	$0.00	$0.00
2	476	105	6	0	$0.00	$0.00
3	121	24	0	1	$3,750.00	$0.00
4	452	154	67	0	$0.00	$0.00
5	294	85	5	0	$0.00	$0.00
6	45	5	0	0	$0.00	$0.00
7	6	0	0	0	$0.00	$0.00
8	186	60	1	0	$0.00	$0.00
9	19	1	0	0	$0.00	$0.00
Total	1,646	451	93	1	$3,750.00	$0.00

Table 3: Non-filer Enforcement Activities

Region	1st NOV	2nd NOV	ACL	Penalty Assessed	Penalty Paid
1	0	0	0	$0.00	$0.00
2	3	0	0	$0.00	$0.00
3	7	2	0	$0.00	$0.00
4	61	10	0	$0.00	$0.00
5	14	3	0	$0.00	$0.00
6	7	0	0	$0.00	$0.00
7	0	0	0	$0.00	$0.00
8	30	0	0	$0.00	$0.00
9	0	0	0	$0.00	$0.00
Total	122	15	0	$0.00	$0.00

[1] Annual report not submitted after NOVs were sent in 1999.
[2] Administrative Civil Liabilities (ACLs).
[3] Penalty paid during calendar year 2000.
[4] Notice of Violation (NOV).