

Carpinteria Sanitary District

May 29, 2015

Carpinteria Sanitary District

The District is an Outstanding and Awarded Operator with an Excellent Compliance History

The October 2012 Incident was a One-Time, Short-Duration Loss of Chlorination Event

- That Posed no Actual or Potential Harm
- Was Immediately Noticed and Corrected, with No Recurrence

The Proposed ACL is Precedent-Setting in Region 3

- Inconsistent with the Board's Handling of Any Previous Similar Event
- Excessive, Disproportionate and Does Not "Bear a Reasonable Relationship to the Gravity of the Violation and the Harm to Beneficial Uses or Regulatory Program Resulting from Non-Compliance"
- Unfair and Inconsistent with the Stated Principles and Goals of the State's Enforcement Policy

The District Has Accepted Responsibility and is Willing to Pay an Appropriate Penalty for the October 2012 Incident

State Water Quality Enforcement Policy

In furtherance of the water quality regulatory goals of the Water Boards, this Policy:

- Establishes a process for ranking enforcement priorities based on *actual* or *potential impact* to the beneficial uses or the regulatory program and for using *progressive levels* of enforcement, as necessary, to achieve compliance.
- Establishes an administrative civil assessment methodology to create a *fair* and *consistent* statewide approach to liability assessment.

(See District Exhibit A, Enforcement Policy, p. 1).

State Water Quality Enforcement Policy

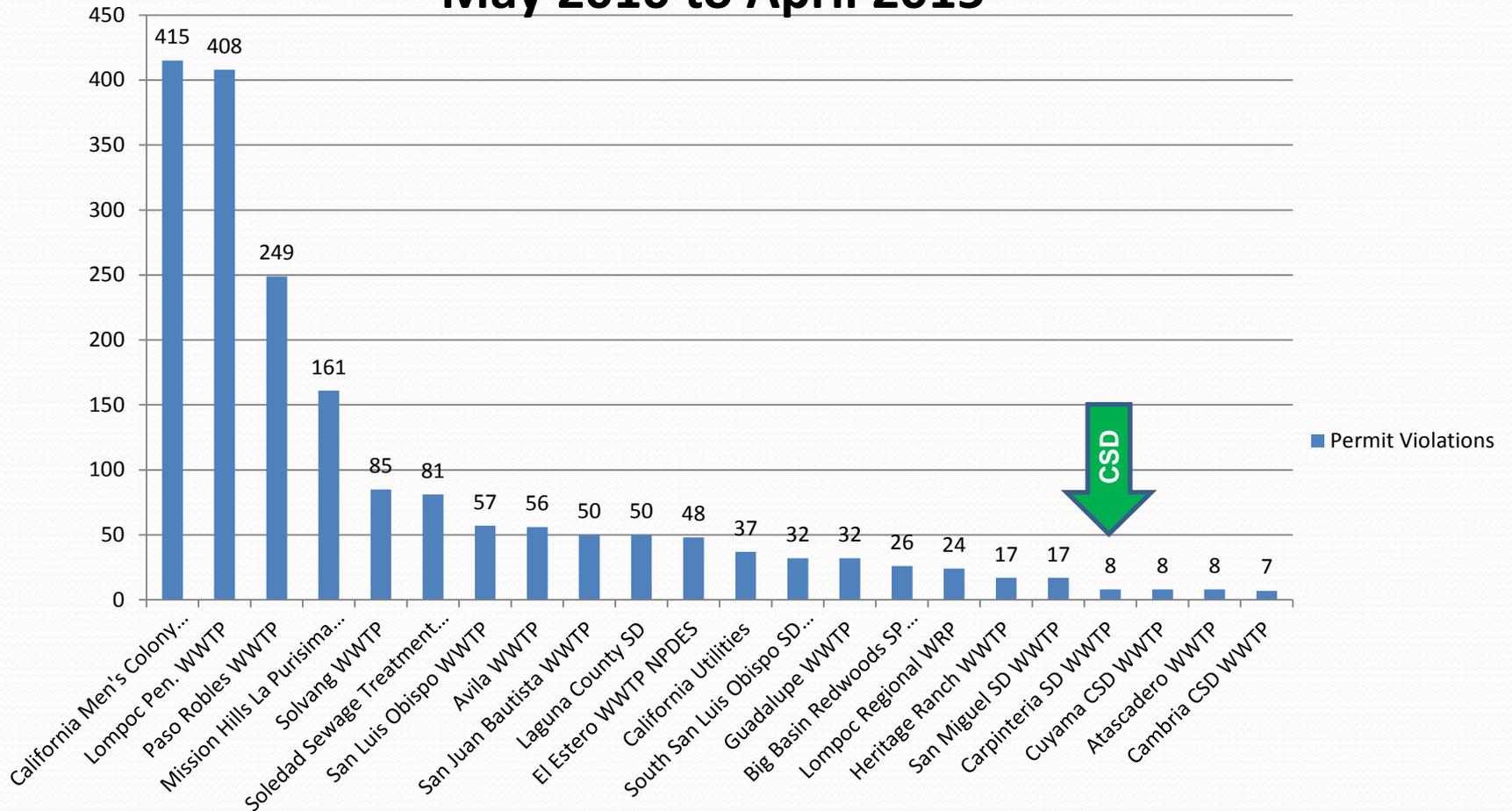
In determining the importance of addressing the violations of a given entity, the following criteria should be used:

1. *Class* of entity's violations
2. *History* of the entity
 - a. Whether the violations have continued over an unreasonably long period after being brought to the entity's attention and are *reoccurring*;
 - b. Whether the entity has a history of chronic non-compliance;
 - c. Compliance history of the entity and good faith efforts to eliminate non-compliance;
3. Evidence of, or *threat* of, pollution or nuisance caused by violations;
4. The magnitude of impacts of the violations;
5. Case-by-case factors that may *mitigate* a violation;
6. Impact of threat to high priority watersheds or water bodies (e.g., due to the vulnerability of an existing beneficial use or an existing state of impairment);
7. Potential to abate effects of the violations;
8. Strength of evidence in the record to support the enforcement action; and
9. Availability of resources for enforcement.

(See District Exhibit A, Enforcement Policy, p. 7).

POTW Discharge Permit Violations

May 2010 to April 2015



Source: SWRCB CIWQS Public Reports (Interactive Violation Report)
 (Source: District Exhibit I)

Loss of Disinfection Events Region 3 – 2010 to Present

1. El Estero WWTP
2. Avila Beach WWTP
3. Cuyama CSD WWTP
4. South San Luis Obispo County WWTP
5. California Mens Colony WWTP
6. El Estero WWTP
7. Soledad Sewage Treatment Plant

(Source: District Exhibit I)

There was No Actual or Potential Harm to Beneficial Uses

[I]t is *unlikely* that the loss of disinfection event posed any threat to people involved in water contact recreation or shellfish harvesting.

...

Because there is uncertainty associated with the actual bacterial concentrations at the edge of the zone of dilution during the event, the worst case 100 percent effluent MPN tests were evaluated using the mixing model. The effluent concentration at the edge of the zone of dilution, 990 MPN/100 mL, would reach a concentration of 400 MPN/100 mL (the fecal coliform single maximum concentration) in approximately *20 seconds* and at a distance of approximately *2 feet* from the point of discharge.

... (cont.)

There was No Actual or Potential Harm to Beneficial Uses

Given the relatively small area this represents, *no adverse impacts* to human direct contact recreation or shellfish harvesting would be expected from the loss of disinfection event.

...

Under reasonable maximum exposure scenarios, none of the events [including the October 2012 Incident] resulted in an exceedance of applicable water quality limits and *no adverse impacts* to human direct contact recreation or shellfish harvesting of aquatic life would be expected.

(See District Exhibit G, Aquatic Bioassay Consulting Laboratories, Inc./Anchor QEA, LLC Report, pp. 6, 13).

ACL Penalty Calculation Factors - District's Recommended Scores

Estimated discharge volume: 297,896 gallons.

Step 1: Potential for Harm for Discharge Violations

Factor 1: Harm or Potential Harm to beneficial Uses - Score of 0: Negligible Threat; or at most, a score of 1: Minor Threat.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge
- Score of 0: Negligible Threat; or at most, a score of 1: Minor Threat.

Factor 3: Susceptibility to Cleanup or Abatement - Score of 1.0.

Step 2: Assessments for Discharge Violations

The volume of the discharge at issue, which does not involve sewage or stormwater, allows the Prosecution Team, in its discretion, to recommend a reduction in the maximum penalty of \$10.00 per gallon to \$2.00 per gallon.

Deviation from Requirement - Minor deviation.

ACL Penalty Calculation Factors - District's Recommended Scores (cont.)

Step 4: Adjustment Factors - Table 4 Violator Conduct Factors

History of Violations - Score of 1.0.

Culpability - Score of 0.75.

Cleanup and Cooperation - Score of 0.75.

Step 6: Ability to Pay -The District has the ability to pay an appropriate penalty.

Step 7: Costs of Investigation - Prosecution Team to be billed at \$125 per hour.

Step 8: Economic Benefit - \$300.

Penalty Calculation Methodology Worksheet - Version Date: 2/4/2014

Instructions

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day..."
6. Enter Values into the Yellow highlighted fields

Select Item 0 = Negligible
 Select Item 0 = Discharged material poses negligible risk
 Select Item = 50% of Discharge Susceptible to Cleanup or
 Select Item Minor

Determine Harm & per
 Gallon/Day Factors for
 Violation #1

Discharger Name/ID: **Carpintera SD**

		Violation 1	
Discharge Violations	step 1	Potential Harm Factor (Generated from Button)	1
	step 2	Per Gallon Factor (Generated from Button)	0.005
		Gallons	296,896
		Statutory Maximum	10.00
		High Volume	2.00
	Total		\$ 2,969
	Per Day Factor (Generated from Button)	0.005	
	Days	1	
	Statutory Max per Day	\$ 10,000	
	Total		\$ 50
Non-Discharge Violations	step 3	Per Day Factor	
	Total Days		
	Multiple Day Violation Reduction		
	Statutory Max per Day		
	Total		\$ -
		Initial Amount of the ACL	\$ 3,018.96
Add Factors	step 4	Culpability	0.75
		Cleanup and Cooperation	0.75
		History of Violations	1
		Maximum for this Violation	\$ 2,978,960.00
		Amount for this Violation	\$ 1,698.17
step 5		Total Base Liability Amount	\$ 1,698.17
step 6		Ability to Pay & to Continue in Business	1
step 7		Other Factors as Justice May Require	1
		Staff Costs	\$ -
step 8		Economic Benefit	\$ 300
step 9		Minimum Liability Amount	\$ 330.00
		Maximum Liability Amount	\$ 2,978,960.00
step 10		Final Liability Amount	\$ 1,698.17

Penalty Calculation Methodology Worksheet - Version Date: 2/4/2014

Instructions

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day..."
6. Enter Values into the Yellow highlighted fields

Select Item 1 = Minor
 Select Item 1 = Discharged material poses minor risk
 Select Item < 50% of Discharge Susceptible to Cleanup or
 Select Item Minor

Determine Harm & per
 Gallon/Day Factors for
 Violation #1

Discharger Name/ID: **Carpintera SD**

		Violation 1	
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)	3
	Step 2	Per Gallon Factor (Generated from Button)	0.009
		Gallons	296,896
		Statutory Maximum	10.00
		High Volume	2.00
	Total		\$ 5,344
	Step 2	Per Day Factor (Generated from Button)	0.009
		Days	1
		Statutory Max per Day	\$ 10,000
		Total	
Non-Discharge Violations	Step 3	Per Day Factor	
		Total Days	
		Multiple Day Violation Reduction	
		Statutory Max per Day	
Total		\$ -	
		Initial Amount of the ACL	\$ 5,434.13
Add Factors	Step 4	Culpability	0.75
		Cleanup and Cooperation	0.75
		History of Violations	1
		Maximum for this Violation	\$ 2,978,960.00
		Amount for this Violation	\$ 3,056.70
Step 5		Total Base Liability Amount	\$ 3,056.70
Step 6		Ability to Pay & to Continue in Business	1
Step 7		Other Factors as Justice May Require	1
		Staff Costs	\$ -
Step 8		Economic Benefit	\$ 300
Step 9		Minimum Liability Amount	\$ 330.00
		Maximum Liability Amount	\$ 2,978,960.00
Step 10		Final Liability Amount	\$ 3,056.70

The District's Recommended Penalty

\$18,000 MMP

\$15,000 MMP for the five MMP Violations (each subject to \$3,000) as stipulated to by the Parties

\$3,000 MMP for the October 2012 Incident

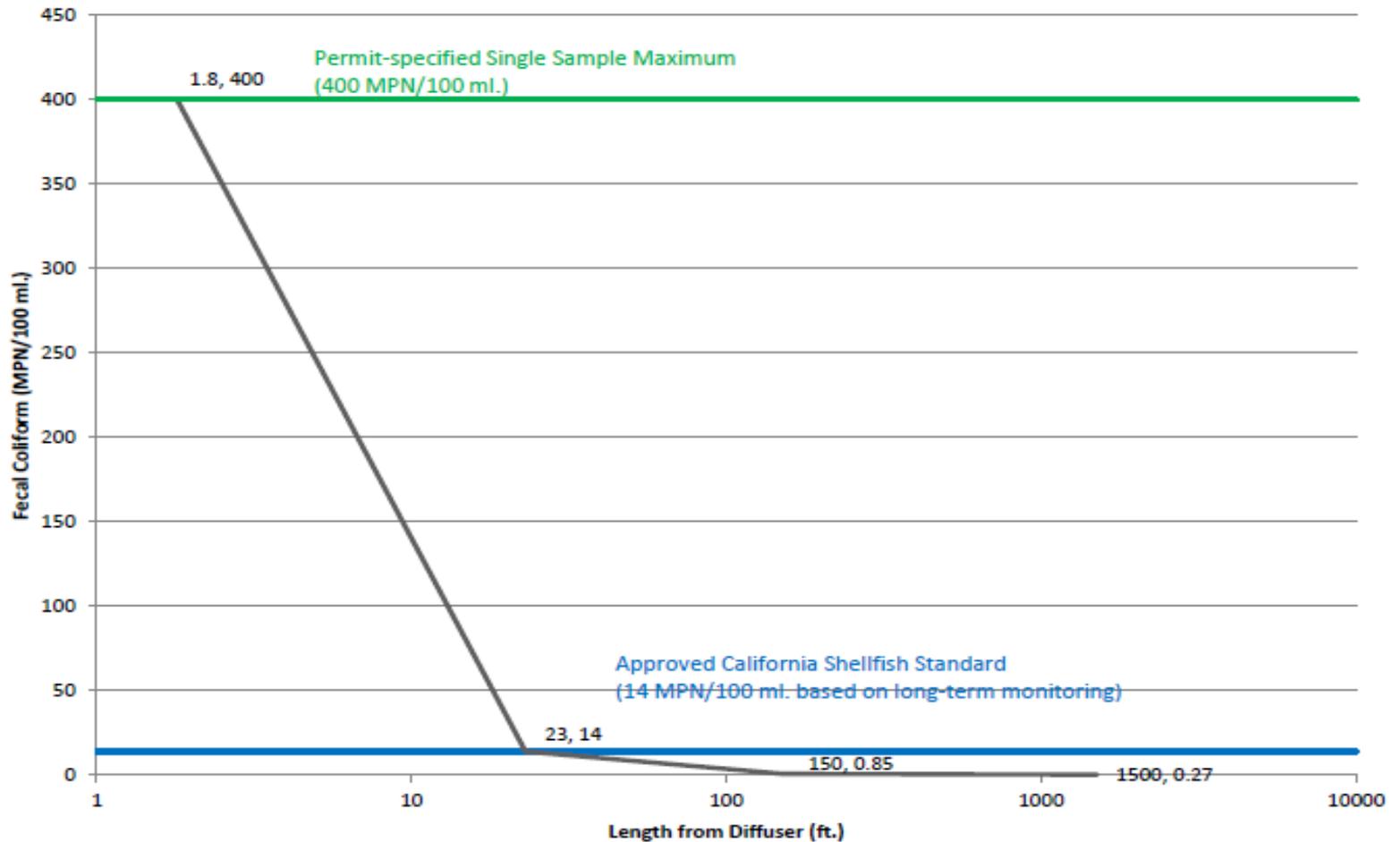
The District's Alternative Recommended Penalty

MMP \$15,000 MMP for the five MMP Violations (each subject to \$3,000) as stipulated to by the Parties

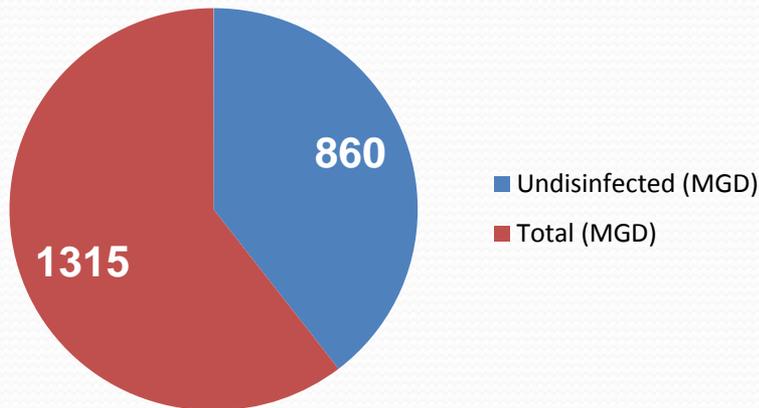
ACL \$1,698, but in no case more than \$3,056

Plus reasonable staff costs.

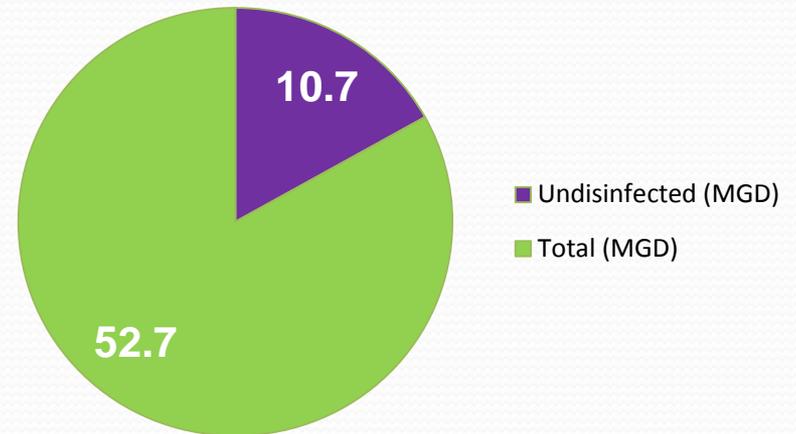
Modeled Fecal Coliform by Distance from Outfall Diffuser October 3, 2012 Event



Permitted Ocean Discharge in California Without Disinfection



65.4% of all POTW ocean discharge in California is not disinfected



20.3% of all POTW ocean discharge in Region 3 is not disinfected

Source: California Ocean Wastewater Discharge Report and Inventory, Heal the Ocean (May 2010)

Loss of Disinfection Events Region 3 – 2010 to Present

1. El Estero WWTP

- 8/11/14 – loss of disinfection due to breaker failure (965,000 gallons)
 - ✓ Regional Board staff direction only to include in monthly report - not to report on CIWQS as a violation
- 3/17/11 – loss of disinfection due to overloaded circuits (volume not reported)
 - ✓ No enforcement action

2. Avila Beach WWTP

- 1/8/11 - blockage in chlorine system for entire day (volume not reported)
 - ✓ No enforcement action

3. Cuyama CSD WWTP

- 8/11 to 9/12 – multiple failure of disinfection system (volume not reported)
 - ✓ Coliform violations - no enforcement action



Loss of Disinfection Events Region 3 – 2010 to Present

4. South San Luis Obispo County WWTP
 - 3/2/10 – loss of disinfection, controller malfunction (no volume reported)
 - ✓ Long term problem with fecal coliform violations – no enforcement
5. California Mens Colony WWTP
 - 8/13/13 – loss of disinfection, pump failure (no volume reported)
 - ✓ Regional Board notified by phone and email – no enforcement
6. Soledad Sewage Treatment Plant
 - 4 discrete failures in Oct 2010 (no volume reported)
 - ✓ Coliform violations - no enforcement

(Source: District Exhibit I)