

# **ENFORCEMENT UNIT BIMONTHLY UPDATE**

Priscilla Njuguna  
December 5, 2019

# Outline

- Purpose of a Successful Enforcement Policy
- Matters Under Development
- External Policies Under Development
- External Guidance Under Development
- External Regulation Updates
- Internal Written Procedures
- Case Prioritization
- Case Resolution
- Next Steps
- Enforcement Committee Discussions
- 2019 Committee Reviewed Complex Cases

# Purpose of a Successful Enforcement Policy

- Deterrence
- Fairness
- Consistency
- Transparency

# Matters Under Development

- Policies and Guidance
  - Penalty Policy
  - Violation Delineation
  - Supplemental Environmental Projects
- Regulations
  - Permit Application Fee Review
  - Substantial Harm Definition
- Procedures
  - Case Review
  - Case Management Milestones

# External Policies Under Development

Fostering consistency in enforcement through transparency and clarity of purpose

- Penalty policy

Approval timeline:

- Policy reviewed by Committee January 2020
- Presented for Commission review February 2020

# External Guidance Under Development

Fostering common understanding of the enforcement process

- Violation Delineation - February 2020
- Supplemental Environmental Projects – March 2020

# External Regulation Updates

- Permit Application Fee Review
  - Commission initiated rulemaking to increase fees in March 2019 (prior to audit report) and adopted amended fees in October 2019
  - Commission will periodically review in accordance with amended fee regulations
- Substantial Harm definition—Amendment to §11386
  - Commission approved proposed amended definition October 2019
  - Commence rulemaking process - 2020

# Internal Written Procedures

- Case Review Procedures – estimated February 2020
- Case Management Milestone Procedures-- timeline by case type – estimated February 2020
  - Intake => Assignment => Investigation => Resolution => Closure
- Administrative Fine Procedure (as defined by §11386)
- Other tools: Template Violator Contact letters
  - Pilot December 2019
  - Refined by Mid-2020



# Case Prioritization

- Impact score (habitat value, durability, toxicity, size, nature, visibility).  
Reviewed by Committee and determined viable
- Additional prioritization options:
  - Context (knowing and intentional conduct by violators)
  - Grouping by violator
  - Pairing by violator
- Re-evaluate 2020 for additional changes as needed

# Case Resolution

- 2019 -- Opened: 61 Closed : 37  
Cease and Desist Orders issued: 1  
Total cases: 284 Actively pursuing: 31
- Backlog: 253            Oldest cases = 7            Priority cases: 27
- Case resolution status updates = bimonthly to Enforcement Committee
- Controlling growth of backlog

# Next Steps

- Track effectiveness of improvements
- Refine case review procedures
- Identify future improvements

# Enforcement Committee Discussions

| Meeting    | Topics (numbers are based on audit recommendations)  |
|------------|--|
| 6/26/2019  | Initial post-audit meeting to establish schedule   |
| 7/1/2019   | Penalty policy overview (1); Case management approaches (1), (2), (5), (16); Administrative Procedures Act and rulemaking  |
| 7/24/2019  | Backlog – remedies and alternatives (2), (3), (14); Standardized fines overview (2), (5), (16)   |
| 8/8/2019   | Inactive cases update (3); Penalty policy development I – initial penalty amount (1); Violations resulting in significant harm (1), (5), (15)  |
| 8/14/2019  | Penalty policy development 2 – economic benefits and deterrence (1), (3), (5); Database and technology limitations (13)  |
| 9/12/2019  | Richardson’s Bay and Abandoned Vessels   |
| 9/25/2019  | Case management update (3), (5), (16); Case prioritization (2), (3), (4), (6), (14); Penalty policy development 3 – ability to pay, voluntary resolution, degree of culpability (1), (5) |
| 10/1/2019  | Definition of significant harm (1), (3), (5); Calculation and delineation of violations (1), (2), (5), (13), (15)  |
| 10/17/2019 | Announcement of new Enforcement Program Manager (Commission meeting)   |
| 10/23/2019 | Permitting overview; Compliance improvements (1), (2), (3), (12)   |
| 11/14/2019 | Case management update (3), (5), (16); voluntarily undertaken environmental projects discussion (1), (2), (15)   |
| 11/20/2019 | Richardson’s Bay and Abandoned Vessels case update; Union Point Park Restoration enforcement recommendation; Workforce study scheduled CA Department of Finance (10)                     |

# 2019 Committee Reviewed Complex Cases

- Richardson's Bay
- Union Point Park
- Middle Harbor Shoreline Park

# Questions?