

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

IN THE MATTER OF:

Sea World, Inc.  
SeaWorld, San Diego

*Violations of Waste Discharge  
Requirements, Order No. R9-2005-  
0091, NPDES Permit No. CA0107336*

Place ID: 256121

**COMPLAINT NO. R9-2010-0138  
FOR  
ADMINISTRATIVE CIVIL LIABILITY  
WITH  
MANDATORY MINIMUM PENALTIES**

**October 7, 2010**

**SEAWORLD, INC. IS HEREBY GIVEN NOTICE THAT:**

1. Sea World, Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) must impose civil liability pursuant to section 13385 of the Water Code. The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the San Diego Water Board is required by statute to impose Mandatory Minimum Penalties (MMPs).
2. Effluent discharged to Mission Bay from SeaWorld, San Diego is subject to the San Diego Water Board's Order No. R9-2005-0091, NPDES Permit No. CA0107336 (Order). The Order prescribes effluent limitations for the discharged of wastewater from exhibit pools, intermittent flows during pool drainage and cleaning operations, runoff from landscape irrigation and facility wash down water to Mission Bay.
3. Water Code section 3385 requires that an MMP of \$3,000 be imposed for each "serious violation" of an effluent limitation. Water Code section (h)(2) defines a "serious violation" as "any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more."
4. Water Code section 13385(i) requires that an MMP of \$3,000 be imposed for each violation of an effluent limitation contained in waste discharge requirements beginning with the fourth violation in any period of six consecutive months.
5. In addition to statutorily mandated MMPs, every violation of an NPDES permit is subject to discretionary liability under Water Code section 13385(a)(2),

including violations not subject to MMPs under Water Code sections 13385 (h) and (i).

6. Ammonia is a group I Pollutant. Ammonia has an instantaneous maximum effluent limitation of 0.55 mg/L pursuant to this Order.
7. The parameter Enterococcus is neither a Group I nor II Pollutant. An effluent limitation has been established for Enterococcus in Order No. R9-2005-0091 such that a violation of the effluent limitation is subject to MMPs under Water Code section 13385(i). The parameter Enterococcus has an instantaneous maximum effluent limitation of 104 MPN/100mL, and a 6-month median effluent limitation of 35 MPN/100mL.
8. The San Diego Water Board hereby expressly reserves the right to, at its sole discretion, withdraw this Complaint for MMPs and reissue a revised Complaint for both MMPs and discretionary administrative civil liabilities arising out of the allegations set forth herein.

## ALLEGATIONS

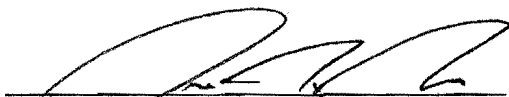
### 9. Effluent Limitation Violations

On December 24 2007, Sea World, Inc. reported an instantaneous maximum enterococcus effluent sampling result of 500 MPN/100mL for November 18, 2007. This was the fourth reported violation of an effluent limitation in a six month period. Attachment No. 1, *Reported Violations*, details the violations.

10. On December 22, 2008, Sea World, Inc. reported an instantaneous maximum ammonia effluent sampling result of 1.7 mg/L for November 18, 2008. This is a "serious violation" because the sampling result exceeded the effluent limitation by 40 percent or more.

11. Pursuant to Water Code section 13385, the San Diego Water Board must impose mandatory minimum penalties in the amount of six thousand dollars (\$6,000) on Sea World, Inc.

Dated this 7<sup>th</sup> day of October 2010.



JAMES G. SMITH  
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer.

Attachment 1: *Reported Violations*

## Attachment 1, *Reported Violations*

MMP ACL Complaint No. R9-2010-0138

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty <sup>12</sup>	Notes
06/20/2007	872933	Enterococcus	Average Monthly	MPN/100mL	35	47.6	\$0	1 <sup>st</sup> violation in 6-month period
06/20/2007	872934	Enterococcus	Instantaneous Maximum	MPN/100mL	104	230	\$0	2 <sup>nd</sup> violation in 6-month period
11/28/2007	872935	Enterococcus	Average Monthly	MPN/100mL	35	130.3	\$0	3 <sup>rd</sup> violation in 6-month period
11/28/2007	872936	Enterococcus	Instantaneous Maximum	MPN/100mL	104	500	\$3,000	4 <sup>th</sup> or greater violation in 6-month period
07/17/2008	872680	Total Coliform	>10% in 30 Days	MPN/100mL	230	300	\$0	1 <sup>st</sup> violation in 6-month period
09/26/2008	872676	Enterococcus	Average Monthly	MPN/100mL	35	201.5	\$0	2 <sup>nd</sup> violation in 6-month period
09/26/2008	872678	Enterococcus	Instantaneous Maximum	MPN/100mL	104	800	\$0	3 <sup>rd</sup> violation in 6-month period
11/18/2008	882161	Ammonia	Instantaneous Maximum	mg/L	0.55	1.7	\$3,000	Serious Violation 212% over effluent limitation

**Total MMP      \$6,000**

<sup>1</sup> Water Code section 13385(h) requires the assessment of a \$3,000 MMP for each serious violation. A serious violation is an exceedance of a Group I Pollutant effluent limitation by 40 percent or more. Ammonia is a Group I Pollutant.

<sup>2</sup> Water Code section 13385(i) requires the assessment of a \$3,000 MMP for the fourth violation and each subsequent violation of an effluent limitation in any six month period