

Report on Implementation of Coastal Commission 30821.3 Penalty Authority in 2024



Shelby Wayment in Año Nuevo State Park

Report submitted by:
California Coastal Commission
Pursuant to Public Resources Code 30821.3(i)

February 2025

February 5, 2025

TO: California Coastal Commission and Interested Parties

FROM: Lisa Haage, Chief of Enforcement, Shelby Wayment, Enforcement Attorney, and Enforcement Staff

SUBJECT: Enforcement Program Progress Report (2024) – Coastal Act Section 30821.3 Implementation

Introduction

The Coastal Act was amended in October of 2021 to provide the California Coastal Commission with the statutory authority to impose administrative penalties for violations of the Coastal Act not related to public access. This change, resulting from the passage of SB 433 authored by Senator Allen, was effectuated through the addition of Public Resources Code Section 30821.3.¹ Section 30821.3 became effective on January 1, 2022.

The Coastal Act was previously amended in June of 2014 by the addition of Section 30821, which provided the Commission with the statutory authority to impose administrative penalties for violations of the Coastal Act's provisions related to public access. With the expanded statutory authority from Section 30821.3, the Commission can now impose administrative penalties for all violations of the Coastal Act that were not previously covered by Section 30821. Violations covered by Section 30821.3 will be referred to as "resource violations" throughout this report to distinguish these violations from public access violations, which are addressed in Section 30821. Resource violations include a wide range of cases causing harm to some of our state's most precious natural resources, such as wetlands, coastal forests, beaches, dunes, and threatened and endangered plants and animals. Protecting these resources is a critical goal of the Coastal Act. The addition of Section 30821.3 has been highly effective in resolving sensitive resource cases, which are important to the ecosystem, play a vital role in the state's economy and tourism industry, and protect our environment from the effects of climate change and sea level rise.

This report provides a summary of the resource cases Enforcement staff opened and resolved in 2024, followed by a summary of the information to be reported pursuant to Section 30821.3, which is attached as **Exhibit 1**. Under Section 30821.3(i), Commission staff are required to report the number and type of new violations investigated and identified, the number of violations resolved, the number of administrative penalties, and the number of days from the initial notice of violation to resolution to both the Commission and the Legislature, which is attached as **Exhibit 2**.

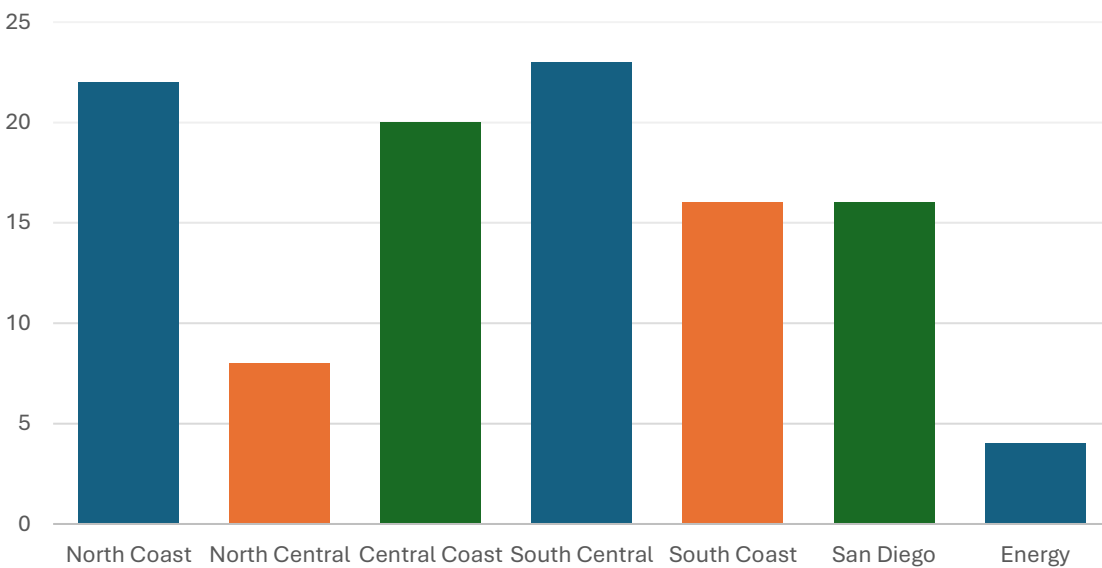
¹ All references herein to a Section are to the Public Resources Code, unless stated otherwise.

Implementation Overview – District Enforcement 30821.3 Cases in 2024

1. Geographic Distribution – Total 30821.3 Cases Per District

In 2023, District Commission staff opened a total of 109 violation cases where Section 30821.3 applied. Commission staff opened 22 cases in the North Coast District, 8 cases in the North Central Coast District, 20 cases in the Central Coast District, 23 cases in the South Central District, 16 cases in the South Coast District, 16 cases in the San Diego District, and 4 cases in our Energy, Ocean Resources, and Federal Consistency Enforcement Program.

Cases Per District: 2024



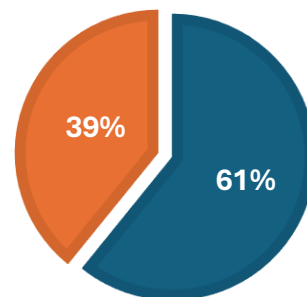
2. Type of Violation

30821.3 cases often involve multiple resource impacts, including violations that cause harm to Environmentally Sensitive Habitat Areas (ESHA), water quality, and other coastal resources, or cases that involve vegetation removal, cultural resource impacts, and placement of shoreline armoring that harms beaches.

Violations under the Coastal Act can arise both from the failure to comply with the legal requirement to get a permit, or from failing to comply with a permit,

30821.3 TYPE OF CASE

■ Unpermitted Development ■ CDP Violations



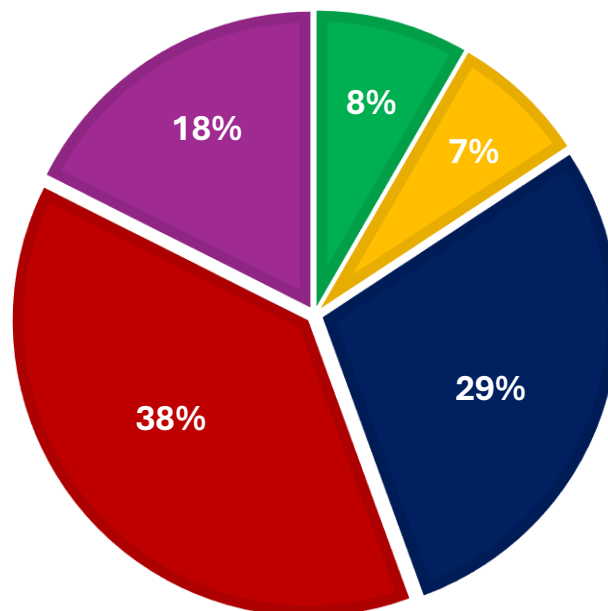
issued either by the Commission or local government. In 2023, Commission staff opened 73 resource cases that involved unpermitted development and 47 cases that involved a violation of an existing Coastal Development Permit (CDP). Some cases involve both types of violations, which is why the total number of cases is greater than 109 cases.

3. Resolution Success

The benefit of the provision is to both prevent violations and to assist in resolving them quickly, which can save both the State and the party involved time and money, and avoid the potential delays and costs associated with litigation. Section 30821.3 is effective in resolving violations, even when no penalty is collected, as the existence of Section 30821.3 motivates the violator to work collaboratively with Commission staff to resolve the issue. In 32 cases, Commission staff sent a Notice of Violation (“NOV”) letter to the violator describing the alleged violations and the potential for penalties under Section 30821.3 and other provisions of the Coastal Act. These NOV’s incentivize the violator to resolve the violation quickly to avoid the potential accrual of penalties and help Commission staff resolve cases more quickly than they would be able to without the application of Section 30821.3.

30821.3 CASE RESOLUTION -- 2024

■ Resolved ■ Agreement Reached ■ Active Negotiations ■ Ongoing ■ Referred to Local Government



In 2024, Commission staff fully resolved 9 resource violation cases, which means an agreement was reached to resolve the violation, the violation was completely resolved, and all restoration or mitigation work was completed. As Commission staff does not

currently have the legislative authority to compel information requests or conduct site inspections as some other state and federal agencies do, Commission staff must find collateral ways of investigating a potential violation to determine whether a violation has occurred before taking enforcement action, such as searching records of local government and other entities and following up on reports from witnesses, which can take additional time and staff resources.

In addition to the 9 cases that are categorized as fully resolved, Commission staff reached an agreement for resolution in 8 additional cases categorized as “agreement reached” in the chart above, which means that the violation will be resolved but the case remains open until the violation is fully resolved on the ground, as restoration work and field oversight is ongoing. For practical purposes, setting aside the need to do long term monitoring, the actual number of cases in which the legal steps have been concluded is 17 total cases. Enforcement actions with a restoration component often include a five-year monitoring period that runs after the initial restoration efforts are completed, to ensure that the habitat is properly restored and will be viable going forward. Additionally, since restoration work often requires a CDP or other Coastal Act authorization, which can take time to be approved and implemented, we have only defined a case as “fully resolved” after all monitoring efforts are complete, the damaged habitat and resources have been restored and will be viable in the future, and any necessary Coastal Act authorization was properly obtained.

In 31 cases, Commission staff is actively negotiating with the violator to reach an agreement, and we hope to resolve these cases as quickly as possible under Section 30821.3. Additionally, in 41 cases, Commission staff are still investigating the violation, unable to yet have productive negotiations with the violator, or do not have the current staffing capacity to negotiate a resolution of the case.

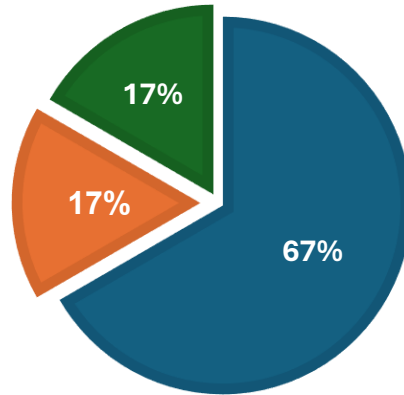
In 19 cases, Commission staff either referred the case to the local government or is actively working with local government officials to resolve the case. Commission staff refers cases to local government in cases where the violation is located in an area where the local government has a certified Local Coastal Program (LCP), and they are the most appropriate entity to handle the violation and are able to do so.

4. Estimated Resolution Time

Fully resolving a resource case is often a complex and lengthy process, due to the nature of restoration work and required ongoing monitoring and mitigation to ensure the site is properly restored and will be viable in the future. The below chart is an estimate of how long it took to fully resolve the resource cases opened in 2024. Of the 9 resource cases that Commission staff were able to fully resolve in 2024, the average time for resolution was 43 days. Four cases were resolved in under 31 days, 1 case was resolved in 32-100 days, and 1 case was resolved in 122 days. In comparison, in 2023 Commission staff were only able to fully resolve one resource case.

ESTIMATED RESOLUTION TIME FOR 2024 CASES

■ Resolved in 0-31 Days ■ Resolved in 32-100 Days ■ Resolved in 100+ Days



Commission staff were also able to fully investigate, address, and determine that 5 resource cases that were opened in previous years were resolved. The potential application of Section 30821.3 to these cases greatly incentivized the violators to reach an agreement with Commission staff, as the majority of these violations occurred prior to the enactment of Section 30821.3.

5. A Few Illustrative Case Examples Under 30821.3

Santa Barbara County

This spring, enforcement staff were alerted that an institutional property owner in Isla Vista had deposited construction debris – including concrete, rebar, and plastic sheeting – on the beach below the bluffs following demolition of an overhanging deck. The property owner had informed local authorities that they did not intend to remove the materials from the beach, and so after coordinating with local authorities, Commission enforcement staff contacted the property owner to direct them to immediately remove the debris. Following receipt of Commission staff’s letter and under staff’s direction, the property owner reversed course and complied, and provided confirmation that they would not make any similar unpermitted depositions of material on the beach or within coastal waters. As the quick pace of bluff erosion in Isla Vista frequently causes overhanging decks and debris falling down the bluff, which can create a public hazard, enforcement staff continue to monitor demolition activities in the area to try and prevent



Unpermitted development and construction debris on the beach

falling debris and to avoid construction debris being introduced into the marine environment.

Debris within coastal waters and on the sandy beach poses a host of problems, both for members of the public and for marine life. Sizable debris can occupy beach space which would otherwise be usable for recreation by beachgoers, and the risk of harm from hazardous debris – such as jagged metal – can discourage members of the public from visiting beaches where such materials are abundant. Other materials such as plastics can be consumed by marine life, causing potential chemical hazardous waste which can kill an organism, or which may bioaccumulate and make its way up the food chain to eventually reach human consumers.

Implementation Overview – Headquarters Enforcement 30821.3 Cases in 2024

While the vast majority of Enforcement actions are resolved and settled informally by our District Enforcement staff, some cases require formal Enforcement action by the Commission and are therefore assigned to Headquarters Enforcement staff to bring to a formal hearing. Some cases involve such large habitat damage that they require a formal Commission order to govern and legally authorize the actions being taken at the site, or in some cases the violator refuses to remedy the violation without the imposition of formal administrative penalties, including under Section 30821.3 and action by the Commission. However, even the majority of “elevated cases” are resolved through a settlement agreement and the Consent Order process, and only one case since the enactment of 30821.3 has come before the Commission through the unilateral order process.

Currently, our Headquarters unit is working on many cases, including under Section 30821.3. We anticipate that some of these cases will be brought to the Commission for formal action and the possible imposition of administrative penalties in the near future.

Imposition of 30821.3 Administrative Penalties and Case Examples

In 2024, Commission Enforcement staff brought three cases before the Commission that involved a resource violation under Section 30821.3, and we were able to successfully reach a settlement agreement to resolve the violation in each of these cases.

Legado Companies – Playa del Rey, Los Angeles County

On March 13, 2024, the Commission issued a \$600,000 Consent Administrative Penalty under Section 30821 and 30821.3 to Legado Companies for violations of the Coastal Act, including the use of large construction equipment to break apart and grade approximately 1.5 acres of coastal sand dunes. The unpermitted development removed native dune plants and sensitive southern foredune habitat, which is considered an Environmentally Sensitive Habitat Area (“ESHA”). To immediately avoid irreparable injury to the resources on the Properties the Executive Director issued an Executive

Director Cease and Desist Order (“the EDCDO”) to Respondent, which required it to immediately cease all unpermitted development on the Properties, submit an interim restoration plan to reestablish dunes on the Properties, and implement that plan once approved by the Executive Director within a specified period of time.

After the EDCDO was issued and as Respondent began to develop the proposed interim restoration plan as required by the EDCDO, Respondent also began working closely and cooperatively with Commission Enforcement staff to resolve the violations. The Commission required Legado Companies to restore the 1.5 acres of sand dunes, undertake habitat mitigation measures, restore an approximately 6.2 acre portion of Dockweiler State Beach to provide for the creation of sand dunes, and install new public access and educational signs. The creation of sand dunes will lead to a nature-based adaptation strategy in response to sea-level rise.



Unpermitted development, including the use of large construction equipment to grade coastal sand dunes and ESHA

Rocky Point Restaurant – Big Sur

On June 14, 2024, the Commission issued a Consent Cease and Desist Order, Consent Restoration Order, and Consent Administrative Penalties (“Consent Orders”) to the owners of land containing Rocky Point Restaurant in Big Sur. The prior owners of the restaurant had installed a locked gate on the County property, placed many signs stating that the area, including land that was publicly owned and land that was covered by public access easements, was private, and hired a security guard to obstruct members of the public who tried to access the County property, the parking area, and the trails. The prior owners also removed vegetation from ESHA located on deed-restricted County owned property, in order to expand their private parking area for the restaurant, among other unpermitted development in ESHA.

In late 2021, Esperanza Carmel Commercial, LLC (“Respondent”) bought the Rocky Point Property and began working with Commission Enforcement Staff to resolve the violations. Respondent agreed to an amicable resolution that will result in the removal of the unpermitted development and restoration of the site, the provision of new public access amenities, the protection of most of the Rocky Point Property for conservation and public access, and the restoration of rare bluff habitat as additional mitigation for the other violations. As a way to address civil liabilities under the Coastal Act, Respondent agreed to undertake projects that includes permanent ADA compatible public restrooms, 24 public parking spaces, 8 public electric vehicle chargers, a public scenic viewing area with 10 picnic tables and 5 benches, and many new public access signs, among other amenities. The Consent Orders also require Respondent to record

public access and conservation easements that would cumulatively protect more than 80% of the Rocky Point Property. Finally, as mitigation for the impact to natural resources, Respondent will also restore the coastal bluffs on the property by removing invasive plants and planting native bluff habitat. The total value of this package, including the construction of restrooms and EV chargers, and the restriction of development and formalization of public access on the overwhelming majority of the Rocky Point Property, is estimated to be in excess of \$4 million, and will provide critical public amenities in an area that is seriously in need of these types of amenities.



Protected coastal views at Rocky Point

HMBAP, LLC – Pacific Palisades

Recently, on December 12, 2024, the Commission issued a Consent Cease and Desist Order, Restoration Order, and Administrative Penalty (“Consent Orders”) to HMBAP, LLC for unpermitted development in the Pacific Palisades, including grading, removal of major vegetation including in ESHA, placement of solid materials in ESHA, and altering natural landforms and geological stability. Respondent worked quickly with Commission staff to reach the resolution, including the installation of BMPs to minimize sediment runoff, remedial grading to restore the property, and revegetation of the area. Respondent has agreed to fully restore the areas of unpermitted development, and undertake mitigation in the form of restoration at a 3 to 1 ratio. The Commission also issued a \$500,000 administrative penalty under Section 30821.3 and in lieu of penalties the party agreed to permanently protect one of the parcels that they own by transferring the parcel to a non-profit or public agency, which has an estimated value to the public between \$2.3 and \$3.5 million.



Unpermitted grading and development in ESHA

Case Resolution

Resource cases typically involve a five year monitoring period after restoration work is complete to ensure all restoration work has been properly completed and the habitat will be viable in the future. Therefore, the resource cases that were resolved in 2024 through our Consent Order process will remain open until all monitoring and restoration work is complete. However, Commission staff were able to review previous resource cases to determine whether all restoration work had been completed and whether all requirements of past Consent Orders had been fulfilled, and staff was able to close six

additional resources cases. All of these violations occurred prior to the enactment of Section 30821.3 but the resolutions were made possible after its passage.

Conclusion

The addition of Section 30821.3 has greatly expanded the Commission's ability to resolve resource cases and provides an incentive for an alleged violator to quickly reach an amicable resolution. Even when no penalties are assessed or paid, such as at the district enforcement level, the potential for such fines has assisted in early resolution of some cases. The potential for the imposition of administrative penalties saves both the State and alleged violators time and resources, which allows the focus to be on restoring habitat, rather than litigation. While resolving resource cases takes more time than public access cases due to the nature of restoration work and ongoing monitoring, we were able to "fully resolve" more cases using Section 30821.3 in 2024 than in 2023, and we expect to be able to "fully resolve" even more cases in the future.

Due to the success of Section 30821.3 in resolving resource cases, sensitive habitat, including ESHA, endangered plants and species, and other natural resources continue to be protected thanks to the work of our Enforcement staff, partners in our local governments, and members of the public for reporting violations. This valuable work helps ensure that our beautiful California coastline remains protected for future generations.

Exhibit 1

30821.3 REQUIRED REPORTING – 2024

1. Number and Type of Cases

Commission staff opened 109 cases, identified as potentially being subject to penalties, under 30821.3 in 2024. 73 cases involved unpermitted development, and 47 cases involved a violation of an existing CDP. This number adds up to more than 109 because some cases involved both unpermitted development and a violation of an existing CDP.

2. Number of Resolved Violations

As is discussed above, fully resolving resource violations, which can involve harm to habitat and species, including full restoration and monitoring is complicated and, depending on the facts, can take some time, even after agreement has been reached on the legal framework for the resolution. Commission staff fully resolved 9 cases under 30821.3 in 2024, which means that an agreement was reached, all restoration or mitigation work was completed, and no further monitoring is needed.

In addition, Commission staff effectively resolved 8 additional cases under 30821.3 in 2024, which means that an agreement was reached, but restoration work is still ongoing or the violator is in the process of getting legal authority for the work, such as applying for a Coastal Development Permit (CDP) to resolve the violation or authorize restoration work. Commission staff are in the process of actively negotiating a resolution in 31 additional 30821.3 cases opened in 2024. Finally, Commission staff referred 19 cases to local government, in cases where the local government has a certified Local Coastal Program (LCP) and is the most appropriate entity to handle the violation.

3. Number of Administrative Penalties

As noted above, the vast majority of these resource cases have been resolved without any penalties at all, when we have been able to work with cooperative parties to comply with the law and to address resource impacts quickly. There were a few cases where this wasn't possible, and in those the Commission did assess administrative penalties, and in many of those cases, the involved parties were interested in also including non-monetary elements as well to provide enhanced restoration of coastal resources rather than payment of some of the monetary amounts that would otherwise apply under the law, which provided even more benefit to the public.

For example, the Commission issued a \$600,000 penalty under Section 30821 and 30821 against Legado Companies in March 2024 and \$500,000 against HMBAP LLC in December 2024. Further, in HMPAP LLC, the owner agreed to transfer a parcel to a non-profit or public agency for conservation, which has an estimated value to the public between \$2.3 and \$3.5 million. Finally, the Commission issued a Consent Cease and Desist Order, Restoration Order, and Administrative Penalty against Esperanza Carmel

Commercial, LLC, which required restoration and the installation of public amenities, which is estimated to be valued in excess of \$4 million.

In 32 of our district cases, we sent a Notice of Violation letter describing the violator's potential financial liability under 30821.3, but often resolve the violation by requiring additional restoration or additional habitat mitigation in lieu of at least some of the potential monetary penalties, when that would provide more efficient and sufficient public benefits.² In many cases, when the violations are addressed quickly, no penalties are included at all, and under the statute, violations that only cause de minimis harm will not lead to the imposition of penalties if the violator acts expeditiously to correct the violation.

4. Number of Days from Initial Notice to Resolution

In 9 cases, Commission staff were able to effectively resolve the cases under 30821.3. 4 cases were open for 0-31 days, 1 case was open for 32-100 days, and 1 case was open for longer than 100 days. In 3 cases, Commission staff determined that no violation had in fact occurred.

² Such restoration or mitigation is "additional" in that the Commission can and does regularly require restoration and mitigation independently, pursuant to other provisions of the Coastal Act that are separate from section 30821.3.

Exhibit 2—Statutory Text

PUBLIC RESOURCES CODE SECTION 30821.3

(a) In addition to any other penalties imposed pursuant to this division, a person, including a landowner, who is in violation of any provision of this division other than public access, including, but not limited to, damage to archaeological and wetlands resources and damage to environmentally sensitive habitat areas, is subject to an administrative civil penalty that may be imposed by the commission in an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation. The administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.

(b) All penalties imposed pursuant to subdivision (a) shall be imposed by majority vote of the commissioners present in a duly noticed public hearing in compliance with the requirements of Section 30810, 30811, or 30812.

(c) In determining the amount of civil liability, the commission shall take into account the factors set forth in subdivision (c) of Section 30820.

(d) A person shall not be subject to both monetary civil liability imposed under this section and monetary civil liability imposed by the superior court for the same act or failure to act. If a person who is assessed a penalty under this section fails to pay the administrative penalty, otherwise fails to comply with a restoration or cease and desist order issued by the commission in connection with the penalty action, or challenges any of these actions by the commission in a court of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant any relief as provided under this chapter.

(e) If a person fails to pay a penalty imposed by the commission pursuant to this section, the commission may record a lien on the property in the amount of the penalty assessed by the commission. This lien shall have the force, effect, and priority of a judgment lien.

(f) In enacting this section, it is the intent of the Legislature to ensure that unintentional, minor violations of this division that only cause de minimis harm will not lead to the imposition of administrative penalties if the violator has acted expeditiously to correct the violation.

(g) "Person," for the purpose of this section, does not include a state agency, or a local government, a special district, or an agency thereof, when acting in a legislative or adjudicative capacity.

(h) Administrative penalties pursuant to subdivision (a) shall not be assessed if the property owner corrects the violation consistent with this division within 60 days of

receiving written notification from the commission regarding the violation, and if the alleged violator can correct the violation without undertaking additional development that requires a permit under this division. This 60-day timeframe for corrective action does not apply to previous violations of permit conditions incurred by a property owner.

(i) The commission staff shall prepare and present a written report to the full commission at its first public hearing after January 1, 2024, and annually thereafter at the first hearing of the year, that includes all of the following related to the implementation of this section:

(1) The number and type of new violations investigated and identified that were reported the previous year.

(2) The number of violations resolved from the previous year, including a description of those resolved without the imposition of an administrative civil penalty.

(3) The number of administrative penalties issued pursuant to this section, the dollar amount of the penalties, and a description of the violations that resulted in the imposition of a penalty the previous year.

(4) The number of days from initial notice to resolution of violations for those resolved in the previous year.

(j) The commission staff shall provide the written report described in subdivision (i) annually to the relevant policy and budget committees in both houses of the Legislature.

(k) Revenues derived pursuant to this section shall be deposited into the Violation Remediation Account of the Coastal Conservancy Fund and expended pursuant to Section 30823.

(l) The commission shall provide an opportunity for a local government with a certified local coastal program to enforce violations of its building codes in compliance with that local coastal program.

(Added by Ch. 643, Stats. 2021).