

Item Number 6c  
Supporting Document 4  
Proposed Chapter 4 Basin Plan  
Updates  
March 5, 2020

## Chapter 4 – Proposed updates



### **BEGIN PROPOSED TEXT COMPLIANCE AND END PROPOSED TEXT ENFORCEMENT**

*Begin proposed text* The Water Code grants the California State Water Resources Control Board (State Water Board) and the nine California Regional Water Quality Control Boards (collectively Water Boards) the authority to implement and enforce certain State and federal water quality laws, regulations, policies, and plans to protect the waters of the state (groundwater and surface waters). Timely and consistent enforcement of these laws is critical to the success of the Water Boards' mission. The San Diego Water Board uses its limited enforcement resources in ways that openly address the greatest needs, deter harmful conduct, protect the public and environment, and achieve maximum water quality benefits.

When evaluating compliance and enforcement actions, the San Diego Water Board relies upon state and federal laws (federal Clean Water Act, Porter-Cologne Water Quality Control Act, etc.), codes, regulations, permits, guidance documents (e.g., State Water Board's Water Quality Enforcement Policy [Enforcement Policy], Supplemental Environmental Projects Policy [SEP Policy], State Water Board Resolution No. 96-079 [Containment Zone Policy], etc.) applicable to the matter. The Enforcement Policy defines an enforcement process that addresses water quality problems in the most fair, efficient, effective, and consistent manner statewide.

Compliance with regulations is critical to protecting public health and the environment, and the most effective and timely methods must be used to ensure that the regulated community stays in compliance. Compliance can be shown through self-monitoring reports verified by the San Diego Water Board, and site inspections, which may include effluent and receiving water quality monitoring and assessment. The San Diego Water Board provides technical assistance, training, guidance, and incentives to encourage and increase compliance. When the San Diego Water Board discovers a violation (non-compliance) it develops an appropriate enforcement response. *End proposed text*

~~*Begin strikeout* The Regional Board is committed to the maintenance of a strong and uniform enforcement program. Appropriate and timely response to instances of noncompliance with Regional Board NPDES permits, WDRs, waste discharge prohibitions and enforcement orders is necessary to ensure protection of the quality of surface and ground waters in the Region.~~

~~Regional Board response to noncompliance incidents include the establishment of a specific time frame for compliance and or correction. All dischargers are expected to correct violations in the shortest time frame possible. With the exception of special circumstances, failure to terminate, comply, or complete corrective actions on a noncompliance incident in a specified time frame will result in the escalation of the matter to a higher level enforcement action.~~

~~Regional Board responses to instances of violation correspond to the following enforcement action level sequence, unless circumstances warrant a more expeditious escalation to a higher level. *End strikeout*~~

*Begin proposed text*

## **ENFORCEMENT ACTIONS**

Enforcement action taken by San Diego Water Board staff in response to a violation, is a critical element of a successful regulatory program. Without strong enforcement to back up the cooperative approach, the entire regulatory framework would be in jeopardy. Enforcement is a critical ingredient in creating the deterrence needed to encourage the regulated community to anticipate, identify, and correct violations. Formal enforcement should occur when a non-compliant member of the regulated public begins to realize a competitive economic advantage over compliant members. The principle of fairness requires that those who are unwilling to incur the expense of regulatory compliance not be rewarded. Appropriate penalties and other consequences for violations offer some assurance of equity between those who undertake actions to comply with requirements and those who do not. It also improves public confidence when government is ready, willing, and able to back up its requirements with action.

The San Diego Water Board has a variety of enforcement options with which to respond to non-compliance. An enforcement action is any informal or formal action taken to address an incidence of actual or threatened non-compliance with existing regulations or provisions designed to protect water quality. The San Diego Water Board implements progressive levels of enforcement in an effort to address violations quickly and to prevent them from becoming bigger problems. Every discovered violation should receive an enforcement response in the form of a notification to the person responsible for the violation. The notification is generally in the form of a Staff Enforcement Letter (SEL) or a Notice of Violation (NOV). Determining the appropriate action beyond the initial notification is a process that considers many factors to balance staff resources with San Diego and State Water Board priorities. Factors considered when selecting cases for further enforcement are listed in the Enforcement Policy. In all cases, the primary expected outcomes of enforcement actions are a return to compliance and deterrence of future violations. The San Diego Water Board tracks violations and enforcement actions in multiple publicly-accessible databases, and periodically reports a summary of those actions to the Board and the public.

### Informal Enforcement Actions

Informal enforcement actions are any enforcement action not defined in statute or regulation. Informal enforcement can include any form of communication (oral, written, or electronic) between San Diego Water Board staff and a person concerning an actual, threatened, or potential violation. The purpose of informal enforcement is to notify a responsible person of an actual, threatened, or potential violation in an effort to regain compliance as soon as possible.

Informal enforcement actions include:

- Oral and Written Contacts (also known as Staff Enforcement Letters [SELs])  
This involves contacting the person by telephone, e-mail, letter, or in person and informing the person of the specific violations, discussing how and why the violations have occurred or may occur, and discussing how and when the person will correct the violation and achieve compliance. These communications shall not include language excusing the violation or modifying a compliance date in waste discharge requirements (WDRs) or other orders issued by the San Diego or State Water Board.
- Notices of Violation (NOV)  
The NOV is the most significant level of informal enforcement action. NOVs generally contain the following: a description of the violation(s); a summary of potential enforcement options available to address noncompliance; and a request for a written response by a specified date that either confirms correction of the violation or identifies a date by which the violation will be corrected.

### Formal Enforcement Actions

Formal enforcement actions are statutorily-based actions to address a violation or threatened violation of water quality laws, regulations, policies, plans, or orders and fall into two basic categories: 1) those that direct future actions and 2) those that address past violations.

Formal enforcement actions include: *End proposed text*

*Begin* ~~strikeout~~ **~~LEVEL A ENFORCEMENT ACTION~~**

~~In this action level the Regional Board staff requests the discharger, by telephone or letter, to correct the problem and prevent recurrence. Regional Board staff may also request the discharger to correct the problem during routine compliance inspections.~~

*End* ~~strikeout~~

*Begin proposed text*

- Notice to Comply (NTC)  
The NTC is used to address statutorily defined “minor” violations that can be corrected within 30 days pursuant to Water Code section 13399 et seq. Failure to comply with a NTC may result in a progressive enforcement response including the issuance of an administrative civil liability.
- Notice of Storm Water Noncompliance (NONC)  
The NONC provides a notice of noncompliance to any person that discharges storm water who fails to file a notice of intent to obtain permit coverage, a notice of non-applicability, a construction certification, or annual report pursuant to Water Code section 13399.25 et seq. Failure to comply with a NONC may result in a progressive enforcement response including the issuance of an administrative civil liability with mandatory penalties.
- Technical Reports and Investigative Orders  
Pursuant to Water Code sections 13267 subdivision (b), and 13383. The San Diego Water Board can conduct investigations and require technical or monitoring reports from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste. Failure to comply with an Investigative Order issued pursuant to Water Code section 13267 may result in administrative civil liability pursuant to Water Code section 13268. Failure to comply with requirements to conduct and submit technical or monitoring reports pursuant to Water Code section 13383 may result in administrative civil liability pursuant to Water Code section 13385. When requiring reports pursuant to Water Code section 13267 the Water Board must make sure that the burden, including the cost of reports, bears a reasonable relationship to the need for the reports and the benefits to be obtained from them. Although these types of investigative orders are frequently embedded with other enforcement actions, they are not strictly enforcement statues, and are also routinely cited whenever asking for technical or monitoring reports associated with planned or permitted discharges.
- Cleanup and Abatement Orders (CAOs)  
Pursuant to Water Code section 13304 and/or Health and Safety Code section 25296.10, a CAO can be issued to clean up the waste or abate the effects of the waste, or both, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including overseeing cleanup and abatement efforts of waste discharged into the waters of the state in violation of any waste discharge requirement or other order or prohibition issued by the San Diego or State Water Board. Failure to comply with a CAO can trigger further enforcement in the form of an ACL, a time schedule order under Water Code section 13308, or referral to the Attorney General for injunctive relief or monetary remedies. State Water Board Resolution No. 92-49 as amended describes the policies and procedures to investigate, cleanup and abate discharges. It also indicates when and how to establish and maintain a containment zone.

- Section 13300 Time Schedule Orders (TSO)  
Pursuant to Water Code section 13300, the San Diego Water Board can require a person to submit a time schedule that sets forth the actions the person will take to address actual or threatened discharges of waste in violation of existing permitted requirements.
- Cease and Desist Orders (CDOs)  
Pursuant to Water Code sections 13301 and 13303, the San Diego Water Board can issue CDOs to persons violating or threatening to violate WDRs or prohibitions prescribed by the San Diego or State Water Board. CDOs will usually contain a compliance schedule and may include restrictions on additional service connections for community sewer systems. Section 4477 of the Government Code prohibits all state agencies from entering into contracts of \$5,000 or more for the purchase of supplies, equipment, or services from any nongovernmental entity who is the subject of a CDO. Failure to comply with a CDO may trigger further enforcement in the form of an administrative civil liability, 13308 TSO, or referral to the Attorney General for injunctive relief or monetary remedies.
- Section 13308 Time Schedule Orders (13308 TSO)  
The San Diego Water Board may issue a 13308 TSO if there is a threatened or continuing violation of a CAO, CDO, or any requirement issued under Water Code sections 13267 or 13383 by the San Diego Water Board. Water Code section 13308 authorizes the San Diego Water Board to issue a 13308 TSO that prescribes, in advance, a civil penalty if compliance is not achieved by the person in accordance with the time schedule. The penalty amount must be based on an amount reasonably necessary to achieve compliance and may not contain any amount intended to punish or redress previous violations. If the person fails to comply with the issued 13308 TSO, then the person will be subject to a complaint for administrative civil liability. The 13308 TSO provides the San Diego Water Board with its primary mechanism for motivating compliance, and if necessary, assessing monetary penalties against federal facilities.
- Modification or Rescission of Waste Discharge Requirements (WDRs)  
In accordance with the provisions of the Water Code, the San Diego Water Board may modify or rescind WDRs in response to violations such as a failure to pay fees, penalties or liabilities, and for a discharge that adversely affects beneficial uses of the waters of the state.

- Administrative Civil Liabilities (ACLs)  
Sections 13323-13327 of the Water Code describe the ACL process. The ACL complaint describes the violation, proposes a specific monetary assessment based upon an algorithm in the Enforcement Policy, and sets a hearing date (no more than 90 days after complaint issuance unless waived by the responsible person). ACL complaints, including mandatory minimum penalties, are posted on the San Diego Water Board's website for a 30-day public comment period prior to settlement. Upon receipt of an ACL complaint, a person may waive its right to a public hearing and pay the liability; negotiate a settlement; or appear at a San Diego Water Board hearing to dispute the complaint. If a person waives the right to a public hearing and pays the liability, a third party may still comment on the complaint at any time during the public comment period. Following review of any comments received on a noticed action, the San Diego Water Board or its delegate will make a determination as to the final action through either an ACL Order (for a contested hearing) or approval/rejection of a stipulated order. If new evidence is provided prior to a final action, the prosecution staff may withdraw the ACL complaint. An ACL complaint may be redrafted and reissued as appropriate.
- Expedited Payment Letters (EPLs)  
EPLs are a type of settlement process used by the San Diego and State Water Board as an alternative to the formal complaint process for resolving penalties for undisputed violations such as mandatory penalties. EPLs resolve complaints with minimal staff resources. EPLs inform a person of alleged violations, include an offer to participate in the expedited payment program to avoid formal litigation, and explain the process for accepting the offer and for contesting certain identified violations if necessary. Resolution of the violations is publicly noticed during a 30-day comment period.
- Supplemental Environmental Projects (SEPs)  
The San Diego Water Board may allow a person to satisfy part of a monetary assessment by completing or funding one or more SEPs. SEPs are projects that enhance the beneficial uses of waters of the state; provide a benefit to the public at large; and are not otherwise required of the person. SEPs are specifically allowed in some statutes of the Water Code (§§ 13385(i) and 13399.34). In the absence of other statutory authority, Government Code section 11415.60 allows the imposition of SEPs as part of an ACL settlement. While SEPs can facilitate settlements, the funding of SEPs is not a primary goal of any enforcement case, nor is it necessary to include a SEP in the settlement of an enforcement action that assesses a monetary liability or penalty. SEPs may be included in ACL actions so long as the projects meet criteria specified in the State Water Board's Policy on Supplemental Environmental Projects. The SEP criteria is used to ensure that selected projects have environmental value, further the enforcement goals of the Water Boards, and are subject to appropriate input and oversight by the Water Boards.

- Enhanced Compliance Actions (ECAs)  
ECAs are projects that enable a person to make capital or operational improvements beyond those required by law, and are separate from projects designed to merely bring a person into compliance. The San Diego Water Board may approve a settlement that suspends a portion of a discretionary monetary liability for completion of an ECA subject to the Enforcement Policy's criteria.

Referral to the Attorney General or District Attorney *End proposed text*

*Begin strikeout*

### ~~**LEVEL B ENFORCEMENT ACTION**~~

~~In this action level the Regional Board Executive Officer issues a notice of violation to the discharger for failure to comply with a compliance schedule for corrective action.~~

### ~~**LEVEL C ENFORCEMENT ACTION**~~

~~In this action level the Regional Board may take a variety of formal higher level enforcement actions. The Water Code provides the Regional Board with a number of enforcement remedies for violations of requirements. These remedies include time schedules, cease and desist orders, cleanup and abatement orders, and administrative civil liability orders.~~

### ~~**Time Schedule Orders**~~



~~When a discharge is taking place or threatening to occur that will cause a violation of a Regional or State Board requirement, a discharger may be required to submit a detailed list of specific actions the discharger will take to correct or prevent the violation. (Water Code section 13300). These schedules may also be required when the waste collection, treatment, or disposal facility of a discharger are approaching capacity. Time schedule orders are adopted by the Board after a public hearing or issued by the Executive Officer pursuant to authority delegated by the Regional Board.~~



### ***Cleanup and Abatement Orders***

The Regional Board may issue a cleanup and abatement order to any person who has discharged, is discharging or is threatening to discharge wastes that will result in a violation of WDRs or other order or prohibition of the State or Regional Board. The Regional Board may also issue a cleanup and abatement order to any person who discharges or has discharged waste to waters of the state and causes, or threatens to cause, a condition of pollution or nuisance. The cleanup and abatement order may require the waste discharger(s) to cleanup and abate the effects of the discharge or to take other appropriate remedial action (Water Code section 13304). A cleanup and abatement order is issued if a pollutant can actually be cleaned up or the pollutant effects abated. The Regional Board has delegated issuance of these orders to the Executive Officer. Cleanup and abatement orders do not require Board adoption, but may be brought before the Regional Board for consideration at the request of the discharger.

### ***Cease and Desist Orders***

If discharge prohibitions or requirements of the State Board or Regional Board are violated or threatened, the Regional Board may adopt a cease and desist order (Water Code section 13301) requiring the discharger to comply forthwith, to comply in accordance with a time schedule, or if the violation is threatened, to take appropriate remedial or preventive action. Cease and desist orders may restrict or prohibit the volume, type or concentration of waste added to community sewer systems, if existing or threatened violations of waste discharge requirements occur. Cease and desist orders may specify interim time schedules as well as limitations that must be complied with until full compliance is achieved. Cease and desist orders are adopted by the Regional Board after a public hearing.

## **~~Administrative Civil Liability~~**

~~Administrative civil liability complaints and orders may be issued by the Regional Board for certain categories of violations. In this process the Regional Board may impose monetary penalties on dischargers. The Regional Board (or the Executive Officer) may issue Administrative Civil Liability complaints (ACLs) to persons who intentionally or negligently violate enforcement orders of the Board, or who intentionally or negligently discharge wastes in violation of any order, prohibition, or requirement of the Board where the discharge causes conditions of pollution or nuisance (Water Code section 13350). ACLs may also be issued in cases where a person fails to submit reports requested by the Board (Water Code sections 13261 and 13268) or when a person discharges waste without first having filed the appropriate RWD (Water Code section 13265). ACLs may be issued pursuant to Water Code section 13385 for violations of any Regional Board prohibition or requirement implementing specified sections of the Clean Water Act, or any requirement in an approved pretreatment program. Amounts of administrative civil liability that the Board can impose range up to \$10,000 per day of violation. The Water Code also provides that a superior court may impose civil liability assessments in substantially higher amounts. The Regional Board may conduct a hearing if a discharger contests the imposition of the Administrative Civil Liability.~~

## **~~LEVEL D ENFORCEMENT ACTION~~**

### **~~Referral to the Attorney General or District Attorney~~ End strikeout**

*Begin proposed text* Failure to comply with an enforcement action may trigger follow-up enforcement in the form of an ACL, 13308 TSO, or referral to the District Attorney or Attorney General for injunctive relief or monetary remedies. The San Diego Water Board can refer violations to the Attorney General or the appropriate county District Attorney to seek criminal relief.

- Attorney General  
The Attorney General can seek civil enforcement of a variety of Water Code violations, generally the same ones for which the San Diego Water Board can impose liability. Maximum per-day or per-gallon civil monetary remedies are two to ten times higher when imposed by the court instead of the San Diego Water Board. The Attorney General can also seek injunctive relief in the form of a restraining order, preliminary injunction, or permanent injunction pursuant to Water Code sections 13262, 13264, 13304, 13331, 13340 and 13386. Injunctive relief may be appropriate where a person has ignored enforcement orders.
- District Attorney  
The District Attorney may seek civil or criminal penalties under its own authority for many of the same violations the San Diego Water Board pursues. While the Water Code requires a formal referral from the San Diego Water Board to the Attorney General, the San Diego Water Board's Executive Officer is not precluded from bringing appropriate matters to the attention of the District Attorney. In addition to the criminal sanctions and civil fines, the District Attorney may pursue injunctive actions to prevent unfair business advantage. *End proposed text*

*Begin* ~~strikeout~~ **Judicial Civil Liability**

~~The Water Code provides that a Regional Board may request the State Attorney General to petition a superior court to enforce orders and complaints issued by the Board and impose civil monetary remedies. The monetary remedies may be in excess of the administrative civil liability penalties that the Regional Board is authorized to impose. The court imposed fines and or imprisonment vary depending upon the seriousness of the violation.~~

**Injunctive Relief**

~~The Regional Board may also request that the Attorney General seek injunctive relief in specific situations, such as violations of cease and desist orders or discharges which cause or threaten to cause a nuisance or pollution that could result in a public health emergency (Water Code section 13331 and section 13340).~~

**Criminal Penalties**

~~The Regional Board may also refer violations to the District Attorney to seek criminal penalties by judicial action in the county where the discharge occurred. The court imposed fines and or imprisonment vary depending upon the seriousness of the violation.~~

~~SELECTION OF APPROPRIATE ENFORCEMENT ACTION~~ *End* ~~strikeout~~

*Begin proposed text*

## MANAGEMENT OF ENFORCEMENT

The San Diego Water Board ensures consistent, focused, and quality enforcement decisions through the use of a Compliance Assurance Unit (CAU) and Compliance Oversight Group (COG). The COG/CAU structure is a way to orient formal enforcement actions around the core mission and priorities of the San Diego Water Board. Each year general regional enforcement priorities are established by the Executive Officer.

- Compliance Assurance Unit (CAU)  
The CAU is a San Diego Water Board technical unit dedicated to prosecuting formal enforcement actions across all programs, coordinate statewide enforcement efforts, and to advise other San Diego Water Board units on enforcement matters. The supervisor of the CAU is also the San Diego Water Board's Enforcement Coordinator.
- Compliance Oversight Group (COG)  
To effectively manage the San Diego Water Board's limited enforcement resources, the COG convenes regularly to systematically identify, prioritize, assign and track priority enforcement actions within the Region and to assign cases to the CAU. To ensure separation of prosecutorial and advisory staff functions, the COG is led by the Assistant Executive Officer.
- Prioritization  
The San Diego Water Board promotes enforcement of all health and environmental statutes in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations within its jurisdiction. The Executive Officer summarizes selected priorities to the San Diego Water Board and the public through the Executive Officer's Report. Each program then updates compliance plans to integrate regional priorities with any other program-specific compliance or enforcement priorities.
- State Water Board Databases  
San Diego Water Board staff record violations and enforcement activities in statewide databases, depending on the program being implemented: California Integrated Water Quality System (CIWQS); Storm Water Multiple Application and Report Tracking System (SMARTS); and GeoTracker. These databases are accessible on-line and allow the public to see information on discharge facilities; including inspection, monitoring, and violation data, and enforcement actions taken.

*End proposed text*

~~*Begin strikeout*~~~~The following criteria are considered by the Regional Board in selecting the appropriate enforcement action in response to an incident of noncompliance:~~

~~Degree of water quality impairment and/or threat to the public health including the degree of toxicity of the discharge;~~

~~Past history of discharge violations;~~

~~Degree of cooperation or recalcitrance shown by the discharger;~~

~~Culpability of the discharger;~~

~~Financial resources of the discharger;~~

~~Whether the circumstances leading to the noncompliance have been corrected;~~

~~Whether the discharge violations are likely to continue in the future;~~

~~Whether the discharge can be cleaned up;~~

~~The need to take immediate cleanup action;~~

~~Any economic benefit realized by the discharger as a result of the noncompliance;  
and~~

~~Other actions as justice may require. *End strikeout*~~

*Begin proposed text*

## **ADJUDICATORY HEARINGS**

An adjudicatory hearing may be needed to resolve a formal enforcement action. The San Diego Water Board protects a person's right to due process, maintains transparency and fairness, and improves efficiency and timeliness of the prosecution of enforcement actions through separation of functions, adherence to rules on ex-parte communications, and delegation of authorities to the Executive Officer.

- Separation of Functions  
To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the San Diego Water Board (Prosecution Team) have been separated from those who will provide advice to the San Diego Water Board (Advisory Team). As such, the Advisory Team issues the Hearing Procedure that lays out rules of the adjudicative hearing process. Generally, procedures governing an adjudicatory hearing before the San Diego Water Board are found at Title 23 of the California Code of Regulations, section 648 et seq. Hearing procedures identify prosecution and advisory staff for that case.
- Ex Parte Communications  
The designated parties and interested persons are forbidden from engaging in ex parte communications regarding their matter with members of the Advisory Team or members of the San Diego Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the formal enforcement action between a member of a designated party or interested party on the one hand, and a San Diego Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated and interested parties (if written) or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted.
- Delegation of Authorities  
The Porter-Cologne Water Quality Control Act (Porter- Cologne Act, California Water Code, Division 7, section 13223) allows the Regional Water Boards to delegate to their Executive Officers any of their powers and duties under the Porter-Cologne Act, except for the following:
  - a. The promulgation of any regulations;
  - b. The issuance, modification, or revocation of any water quality control plan, water quality objective, or waste discharge requirement;
  - c. The issuance, modification, or revocation of any cease and desist order;
  - d. The holding of any hearing on water quality control plans; and
  - e. The application to the Attorney General for judicial enforcement, but excluding cases of specific delegation in a cease and desist order and excluding the cases described in subdivision (c) of sections 13302, 13304, and 13340.

The San Diego Water Board delegated all statutorily-allowed powers and duties to the Executive Officer in Resolution No. R9-2005-0271. Resolution No. R9-2014-0046 provides additional direction on the nature and circumstance where certain orders imposing civil liability should be considered by the Executive Officer.

The San Diego Water Board has delegated the following enforcement authorities to the Executive Officer:

- a. Hold evidentiary hearings for mandatory minimum penalty complaints issued pursuant to Water Code section 13385, subsections (h) and (i);
- b. Hold evidentiary hearings for mandatory penalty complaints issued pursuant to Water Code section 13399.33;
- c. Hold evidentiary hearings for administrative civil liability complaints to recover unpaid permit fees;
- d. Approve or reject settlement orders imposing administrative civil liability under Water Code sections 13385, 13350, or 13308 up to \$500,000; and
- e. Hold evidentiary hearings for administrative civil liability complaints imposing liability for non-discharge violations under Water Code sections 13308, 13350, or 13385 up to \$500,000.

The Executive Officer will bring the following types of civil liability matters to the attention of the San Diego Water Board at a public board meeting or by other appropriate communication:

- a. Matters of a unique or unusual nature;
- b. Matters involving significant policy questions;
- c. Highly controversial matters;
- d. Matters known or believed to involve a substantial risk of litigation; and
- e. Any matter that a San Diego Water Board member requests to be brought to the attention of the Board.

## **SPILL RESPONSES**

State and federal law requires that unauthorized discharges of sewage or hazardous materials be reported to the California Emergency Management Agency (Cal EMA). Spills must be reported immediately upon knowledge of release. This requirement is necessary to ensure that agencies with first responder duties are on-site, as necessary, and that actions are taken to protect public health and the environment. Upon notification, Cal EMA will immediately notify the local emergency response agencies (if necessary), San Diego Water Board, local public health departments, and local offices of environmental health. *End proposed text*