



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.0 ILLEGAL DISCHARGES/ILLICIT CONNECTIONS COMPONENT

#### A-10.1 Introduction

Since illegal discharges and illicit connections can be a significant source of pollutants from the municipal storm drain system, the City's LIP includes a comprehensive program for detecting, responding to, investigating, and eliminating these types of discharges/connections in an efficient and timely manner. In order to ensure that the program is efficient and effective, the City has instituted regular documentation procedures for their water pollution complaint and spill response activities.

The City of Newport Beach has incorporated the Illegal Discharges/Illicit Connections (ID/IC) program as described in **Section 10** of the Orange County Drainage Area Management Plan (DAMP) as the basis for its Local Implementation Plan (LIP). Subsequent sections of A-10 describe and outline guidelines, procedures and requirements for the City of Newport Beach

The ID/IC Program provides practical guidance for City staff when identifying, responding to, mitigating and enforcing the ID/IC Program component for the protection of public health and the environment. The ID/IC Program provides the framework and a process for conducting the following NPDES permit compliance activities for illegal discharges and illicit connections:

- Program administration
- Detection of illegal discharges and illicit connections
- Responding to water pollution incidents and complaints
- Inspections/investigations
- Education/Enforcement
- Assessments of program effectiveness; and
- Annual training

In order to be effective, the ID/IC program has been integrated with the municipal, industrial, commercial, residential (optional), and construction inspection programs so that if an illegal discharge or illicit connection is discovered during an inspection it can be properly addressed and eliminated. In addition, on behalf of the Permittees, the Principal Permittee implements the water quality monitoring programs which can also assist in identifying illegal discharges and illicit connections.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.1.1 Legal Authority

As was previously stated in the Legal Authority Section of the Local Implementation Plan (Section A-4), in order to effectively prohibit non-stormwater discharges from entering the municipal storm drain system, in 1997 the City of Newport Beach adopted a water quality ordinance. The ordinance is included as an attachment to Section A-4.

The legal authority for this LIP is referenced in **DAMP Sections 4 and 10**.

### A-10.1.2 Overall Program Management

The LIP is provided to assist municipal staff in complying with the municipal stormwater permits. The key staff responsible for overseeing, implementing, and enforcing the ID/IC stormwater program component are identified in **Figure A-10.I**, and described in further detail below.



SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

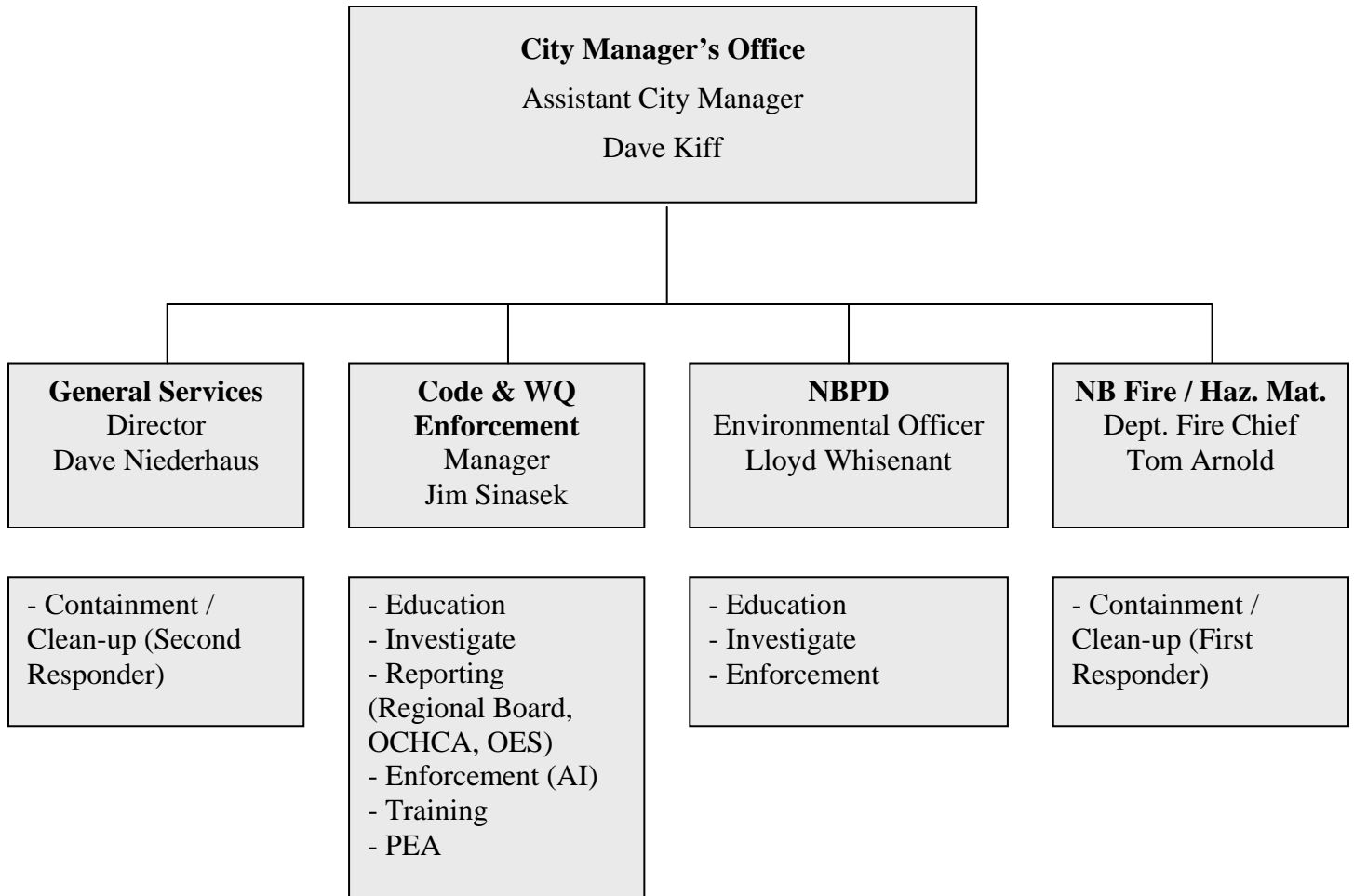


Figure A-10.I



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.1.3 Program Implementation

The City of Newport Beach has available resources to implement the spill response and Ordinance enforcement portions of the stormwater program. The City provides 24-hour in-house response to Ordinance violations and spill incidents.

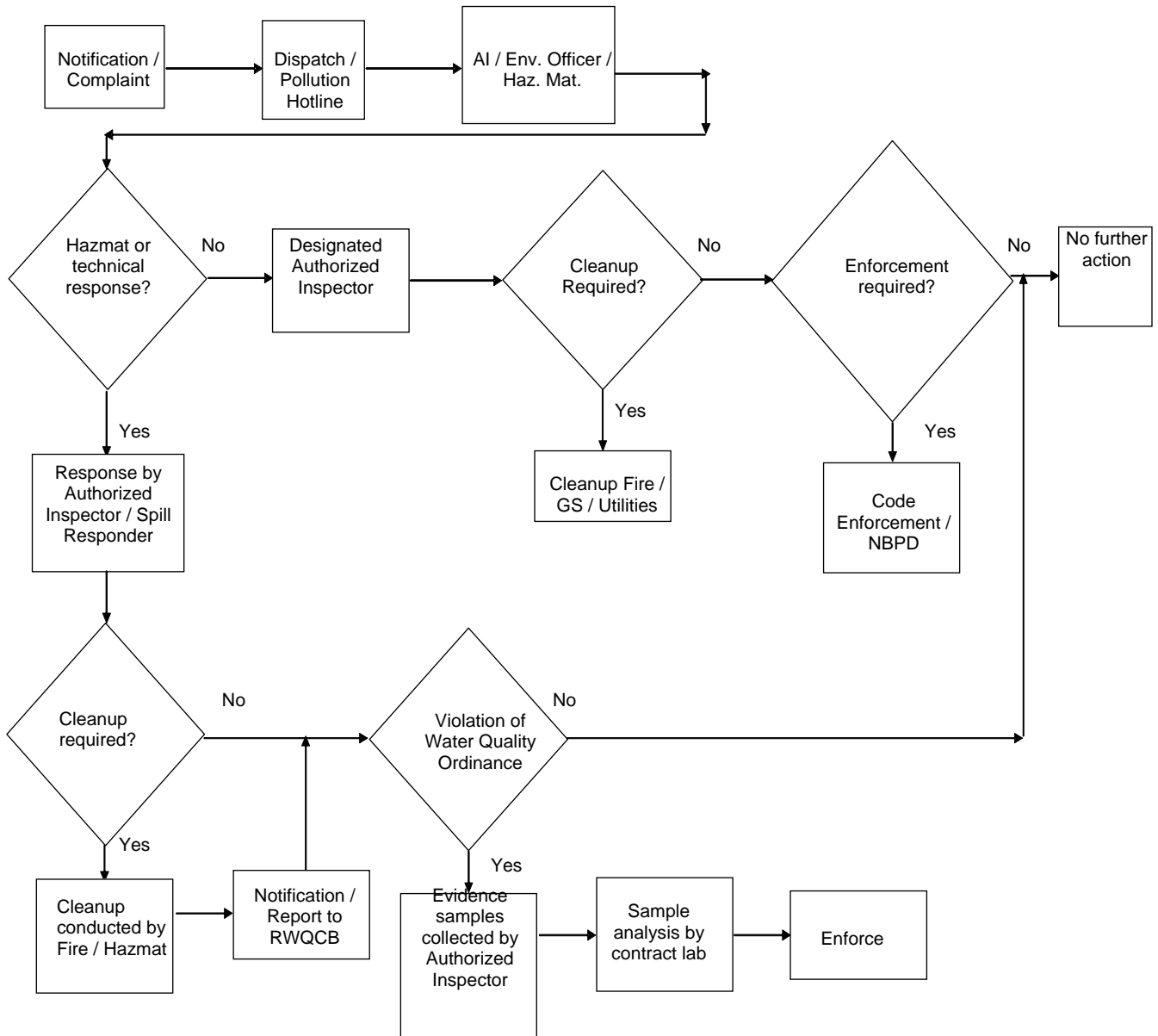
**Figure A-10.II** is the City of Newport Beach's flow chart to be utilized as a guide to determine the proper procedures for notification and response.



SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

Figure A-10.II

City of Newport Beach  
Notification/Response Procedures





## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### *Roles and Responsibilities*

#### Authorized Inspectors

The Authorized Inspector(s) (AI) are assigned to investigate compliance with and detect incidences of violations of the Ordinance. The designated authorized inspectors are:

Contact Name: Jim Sinasek  
Title: Code and Water Quality Enforcement Manager  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: Cass Spence  
Title: Sr. Code & Water Quality Enforcement Officer  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: Matt Cosylion  
Title: Code & Water Quality Enforcement Officer  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: Shane Burckle  
Title: Code & Water Quality Enforcement Officer  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: Shannon Swafford  
Title: Trainee - Code & Water Quality Enforcement Officer  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: John Kappeler  
Title: Water Quality and Watershed Specialist  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

#### Spill Responder

The Spill Responder (SR) can be an AI or other authorized personnel responsible for coordinating with the fire department for the immediate response to any accidental spills, leak or prohibited discharge of pollutants requiring clean-up. The designated spill responders are:



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

Contact Name: Tom Arnold  
Title: Deputy Fire Chief  
Telephone: 949.644.3040  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: Jim Sinasek  
Title: Code and Water Quality Enforcement Manager  
Telephone: 949.644.3215  
Address: 3300 Newport Blvd., Newport Beach, CA 92663

Contact Name: Lloyd Whisenant  
Title: NBPD Environmental Services  
Telephone: 949.644.3652  
Address: 870 Santa Barbara Dr., Newport Beach, CA 92660

Contact Name: Dave Neiderhaus  
Title: General Services Director  
Telephone: 949.644.3055  
Address: 592 Superior Ave., Newport Beach, CA 92663

Contact Name: Jim Delicce  
Title: Utilities Supervisor (Wastewater)  
Telephone: 949.718.3415  
Address: 949 West 16<sup>th</sup> St., Newport Beach, CA 92663

### Enforcing Attorney

The Enforcing Attorney is the City Attorney acting as counsel for the Permittee, and their appointee. For purposes of criminal prosecution, only the City Attorney or designee should act as the Enforcing Attorney.

### **A-10.2 Detection of Illegal Discharges and Illicit Connections**

The City of Newport Beach has a number of programs that facilitate the detection of sources of illegal discharges and illicit connections.

These programs include the following:

- Municipal Activities (DAMP Section A-5) – field inspectors and facility managers assist in the identification of illegal discharges and illicit connections during their



## SECTION A-10, ILLEGAL DISCHARGES/ILLCIT CONNECTIONS

---

daily activities. For example, during the routine maintenance of a drainage facility, a field inspector will report any dumped materials and/or undocumented connections to the NPDES representative.

- Public Education (DAMP Section A-6) – assists with the distribution of public education materials that provide phone numbers and encourage the reporting of spills.
- Construction Activities (DAMP Section A-8) - assists with the identification of illegal discharges from construction sites.
- Existing Development Programs (DAMP Section A-9) – assists with the identification of actual or threatened illegal discharges from industrial, commercial and residential areas.
- Water Quality Monitoring Program (DAMP Section A-11) – assists with the identification of problem areas through the collection of water quality data.
- Active participation in the Orange County Hazardous Materials Strike Force
- Encourage the public to report water pollution problems to the countywide problem reporting hotline at (714) 567-6363

### **A-10.3 General Spill Response Procedures (Excluding Sewage Spills)**

In addition to the proactive detection and elimination of threatened or occurring discharges, a large portion of the City of Newport Beach's ID/IC program is responding to water pollution complaints and incidents.

While all spills to the municipal storm drain system are important and responses are often the same, sewage spills have merited special regulatory attention as coordination with other public agencies as well as private owners is often involved; for this reason sewage spill response procedures are covered separately.

The response procedures consist of the following elements:

- Record Keeping
- Notifications and Response Requests
- Response
  - On-Scene Assessment/notifications
  - Containment
- Investigations



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- Clean-Up
  - Decontamination
  - Waste Storage and Disposal
  - Cost Recovery
- Reporting
- Education and Enforcement
- Program Effectiveness Evaluation

### A-10.3.1 Record Keeping

Information from a complaint, notification, or response request is accurately documented throughout the entire process in order to:

- Provide accurate information for any personnel involved in the incident;
- Allow the data to be analyzed in order to determine if there are repeat offenders, problematic areas, problematic types of businesses, etc.
- Ensure that the required regulatory notification and/or reports are completed;
- Provide the required information for any enforcement actions and/or cost recovery;
- Assist with the annual reporting and program effectiveness evaluations; and
- Allow for better decision making when improving upon the program.

To ensure that the necessary information from a complaint, notification, or response request is accurately documented throughout the entire process, the City of Newport Beach uses forms similar to the County's Pollution Notification and Investigation Request (PNIR) form (**Exhibit A-10.I**)

This form collects information on the:

- Initial notification/response request;
- The location and specific details about the complaint or spill;
- Information about the alleged responsible party;
- The results of the investigation; and
- The actions that were taken as a result.

Documentation may also include photographs, the collection of samples, detailed notes on observations, witness interviews, discussions on decisions made and other information relevant to the investigation.

After the initial entry of the information on the PNIR or related form, the information is entered into a database so that the data can be analyzed and future enforcement activities focused on either problematic responsible parties, locations or constituents. In addition, the use of the database allows the city to quickly and accurately provide the



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

information that is necessary for the annual progress reports.

### A-10.3.2 Notifications and Response Requests

In order to have a successful ID/IC program, the City of Newport Beach needs to obtain information about potential or existing complaints and spills as soon as possible so that the problem can be mitigated as quickly as possible.

In order to facilitate the reporting of problems by the general public, the city advertises the County's 24 hour water pollution problem reporting hotline number (714-567-6363) as well as the website reporting form ([www.ocwatersheds.com](http://www.ocwatersheds.com)) on all of the public education brochures and posters. The County's 24 hour hotline number and web address are included in all Pacific Bell Regional Phone Directories. The hotline number is located in the Government Section of the White Pages while the web address can be found in the Internet Section of the Yellow Pages.

In addition, the City has its own website [www.cleanwaternewport.com](http://www.cleanwaternewport.com), which includes a pollution reporting form.

The city also coordinates with internal staff and other agency and emergency response personnel so that they understand how to identify a problem and who to report it to.

### A-10.3.3 Response

After receiving a notification of a water pollution problem or spill, the City of Newport Beach refers the problem to their FD Haz. Mat. Team, Authorized Inspector and/or Spill Responder. Each complaint or spill is investigated as soon as possible and according to **DAMP Section 10** to ensure that valuable information is not lost.

The Response includes the following elements:

- On-Scene Assessment;
- Notifications; and
- Containment

After conducting an on-scene assessment, several notifications may be necessary.

Notifications may include:

- Notification to Other Agencies – Notifications need to be made to any agencies or entities that may be affected by or have jurisdiction over the pollutant or discharge.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- Requesting Assistance – If determined that the incident requires a multi-agency response, it may be necessary to request additional assistance from the other agencies.

The Agency Notification List is included in **Exhibit A-10.I**.

### A-10.3.4 Investigations

The City of Newport Beach's Authorized Inspector, Environmental Officer, and / or Responder carefully documents the investigation to ensure that accurate information is obtained and all evidentiary requirements are met. The types of equipment, supplies and forms that may be used in the field during the investigations are listed in **Exhibit A-10.I**.

The actual investigation may include one of more of the following:

- Collection of Samples and the submittal of a Chain of Custody form to the laboratory conducting the analyses;
- Photographs - If it is deemed necessary to take photographs to record visual observations and to document evidence for possible future enforcement action. The city uses a form to document the photographs taken; and
- Interviews - If it is deemed necessary to conduct interviews, the city uses a form to document the key pieces of information.

### A-10.3.5 Clean-Up

The main objective in the clean-up operation is to restore the impacted area back to its original state (to the maximum extent practicable) and to prevent further environmental degradation in the surrounding area of the incident. It is important that the clean-up is completed in a timely and cost-effective manner.

During this phase of the response, the Inspector or Responder is generally overseeing and directing the cleanup and should re-evaluate the resources necessary to perform the clean-up and ensure that they are being prepared and sent to the site. The general responsibilities are:

- Provide list of clean-up companies for the responsible party to contact (**Exhibit A-10.I**), or the clean-up will be performed by City personnel and costs back charged to the responsible party;
- Oversee clean-up – Provide clean-up directions and verify pollutant removal;



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- Document clean-up activities (proper and safe procedures) to verify appropriate clean-up charges;
- Document amount of waste or pollutant removed to verify disposal costs

The Authorized Inspector / Spill Responder may also deliver to the owner or occupant of any property, or any other Person who becomes subject to an Administrative Remedy, such as a Notice of Violation or an Administrative Citation, and an Invoice for Costs. The Invoice for Costs is immediately due and payable to the City of Newport Beach for the actual costs incurred by the City in responding to, overseeing the clean up of and issuing and enforcing any notice or order.

### A-10.3.6 Reporting

The ID/IC program has a number of reporting requirements. The requirements include:

- Proposition 65 Notification - Health and Safety Code 25180.7 provides that  
“Any designated government employee who obtains information in the course of his official duties revealing the illegal discharge or threatened illegal discharge of a hazardous waste within the geographical area of his jurisdiction, and who knows that such discharge or threatened discharge is likely to cause substantial injury to public health or safety, must, within 72 hours, disclose such information to the local health officer.”

The Proposition 65 Hotline telephone number is (714) 667-3765

- Regional Board Notifications - If a spill, leak or illegal dumping is determined to pose a threat to human or to environmental health the City will provide oral notification to the Regional Board by phone or e-mail within 24 hours of the discovery followed by a written report within 5 days.

### Santa Ana Regional Board

At a minimum the items that are reported include:

- All sewage spills that reach surface waters and/or could impact water recreation
- All reportable quantities of hazardous waste spills per 40 CFR 117 and 302
- Oil spills that could impact wild life
- Hazardous substance spills where residents are evacuated

The oral notifications are submitted within 24 hours to:



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- Marc Brown  
Santa Ana Regional Water Quality Control Board  
Telephone: (909) 321-4584  
E-Mail: mbrown@rb8.swrcb.ca.gov

The key pieces of information that are included with the oral notification include:

- a) The date and time of the incident
- b) Reporting party contact information
- c) A description of the incident
- d) The location
- e) Alleged responsible party contact information
- f) Status on actions taken

The written reports are submitted within 5 days to:

Marc Brown  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501

In order to comply with this requirement, a completed PNIR or similar form is submitted to the Board.

In addition, the Regional Board has requested a monthly submittal log which includes all Administrative Citations and Notices of Violation issued.

### **A-10.4 Sewage Spill Response Procedures**

While all spills to the municipal storm drain system are important and responses are often the same, sewage spills have merited special regulatory attention as coordination with other public agencies as well as private owners is often involved.

While the protocols used in responding to any type of spill are essentially the same, in compliance with Order No. R8-2002-014, the City of Newport Beach has developed and submitted an Overflow Emergency Response Plan (**Exhibit A-10.III**) to ensure that sanitary sewer overflows are responded to in a timely and efficient manner.

The city will utilize this Plan when responding to sewage spills.

The current City Ordinance 14.24.030 requires that private sewer laterals and septic systems be designed and operated in accordance with industry standards. The Ordinance also requires the proper maintenance of these facilities in order to minimize



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

possible spills, breakages, and failures. The City will enforce these requirements if a spill from private property or source is, or cannot be, effectively remedied by the owner or other responsible party.

### A-10.4.1 Program Responsibilities

Although there are some instances where the municipal storm drain and sanitary sewage collection systems are under the same public agency (City) ownership, there are also many situations where the jurisdictions are not the same. Responding to overflows that reach the municipal storm drain system is, in these instances, a joint or shared responsibility of both (stormwater and waste water) Permittees.

The City of Newport Beach owns and operates the sanitary sewer collection system within the City limits (exceptions noted below), and is responsible for preventive / corrective sewer maintenance programs. These programs consist of procedures and methodologies provided for the operation, maintenance, repair and replacement of sewer mains, manholes, and pump stations. These programs provide for routine monitoring, inspection, cleaning, and related maintenance of all components of the municipal sanitary sewer system in order to reduce the potential of sanitary sewer overflows (SSOs) and structural failures.

As noted above, there are areas within the City's limits that are served by the Orange County Sanitation District (OCSD), the Irvine Ranch Water District (IRWD), and the Costa Mesa Sanitary District (CMSD).

Regardless of where the spill originates, if the spill has entered or may enter the storm drain system the Permittees respond to assist with the cleanup and remediation of the area.

### A-10.4.2 Record Keeping

To ensure that the necessary information is collected, the City of Newport Beach uses forms similar to the County's Pollution Notification and Investigation Request (PNIR) form (**Exhibit A-10.I**).

This form collects information on the:

- Initial notification/response request;
- The location and specific details about the complaint or spill;
- Information about the alleged responsible party;



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- The results of the investigation; and
- The actions that were taken as a result.

In addition to the information that is collected on the PNIR form, the following pieces of information are collected when documenting a sewage spill:

- Information regarding whether a sewage spill entered a storm drain (i.e. where sewage is observed running into a drain, or directly to a receiving water, creek, channel, etc. or there is residual evidence thereof), including the location and name of the receiving water;
- Determination of spill start and stop time;
- A determination of spill volume

### A-10.4.3 Response

If not already completed upon arriving on scene, the discharge or release of sewage should be discontinued and contained as close to the originating site as possible after the initial assessment has been completed. This is critical in preventing further contamination or degradation downstream and will ultimately result in an easier and less expensive cleanup effort.

The order of preference for the containment would be:

- On-site at the point of origination
- In the curb/gutter or street
- In the catch basin
- In the storm drain system
- In the channels/streams

### A-10.4.4 Clean-Up

The main objective in the clean-up operation is to restore the impacted area back to its original state (to the extent practicable) and prevent further environmental degradation in the surrounding area of the incident. During this phase of the response, the Inspector or Responder is generally overseeing and directing the cleanup and should re-evaluate the resources necessary to perform the clean-up and ensure that they are being prepared and sent to the site.

The general responsibilities are:

- Coordinate with sanitation districts or others for clean-up actions;
- Provide a list of clean-up companies for the responsible party to contact;



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- Secure spill site to prevent contact by the public;
- Oversee clean-up – Provide clean-up directions and verify pollutant removal. No readily identified residue, e.g., sewage solids, papers, etc. should remain;
- Ensure that any debris that the wastewater was in contact with is removed for proper disposal;
- Disinfect where appropriate. If disinfected, the wastewater must be contained and disposed of properly;
- Document clean-up activities (proper and safe procedures) to verify appropriate clean-up charges;
- Document amount of waste or pollutant removed to verify disposal costs;

### A-10.4.5 Reporting

Sewage spill reporting to various regulatory agencies has parallel and overlapping requirements. However, reporting spills to one regulatory agency will not necessarily satisfy the requirements of the other. Therefore, the City of Newport Beach reports to the following agencies:

#### Storm Drain Discharges

- Regional Board Notifications – If a spill, leak or illegal dumping is determined to pose a threat to human or environmental health the Permittees report this information to the Regional Boards by phone or e-mail within 24 hours of the discovery followed by a written report within 5 days. (See Section A-10.5.6 above)

#### Sewage Discharger Notifications

- Orange County Health Care Agency (HCA) - California Health and Safety Code Section 5411.5 requires that all sewage spills be immediately reported to the HCA 24-hours a day. During standard work hours (M-F, 8:00 a.m. to 5:00 p.m.) sewage spills that may impact beaches or the ocean should be called in by phone directly to Regulatory Health Services, Environmental Health, Ocean Water Protection Program staff personnel at (714) 667-3660. After hours reports for emergency spills can be phoned in through the County Communications number (714) 628-7008.
- State Office of Emergency Services (OES) - California Water Code Section 13271 and the CCR Section 2250 require that the State OES be notified immediately of all sewage spills of 1,000 gallons or more from public sewer systems by telephone



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- Santa Ana Regional Board - Order No. 2002-0014 requires that sewage dischargers immediately report all SSOs entering a storm drain, drainage channel, or surface water body to the Board by telephone, voice mail, e-mail, or FAX. Completed SSO Report Forms, or equivalent, for each and every overflow event must be submitted within five days of the initial notice. Full reports for each SSO occurrence including photos and mitigation measures must be submitted electronically to the RWQCB at the end of each month. Submittal of SSO Summary Reports and certification statements are also required 30 days following the spill report period.
- Control One (714) 628-7000

### A-10.5 Illicit Connections

As part of the municipal stormwater program, the City of Newport Beach detects and eliminates illicit connections within its municipal storm drain system.

Any illicit connection identified by the City of Newport Beach during routine inspections is investigated. Appropriate actions are then taken to approve undocumented connections by permit procedure and/or pursue removal of those connections that are determined to be illicit connections and not permissible.

If evidence of an illegal discharge is detected and the source does not appear to be evident a source investigation may be conducted to determine if the discharge is being conveyed through an illicit connection.

#### A-10.5.1 Source Investigations

Source investigations may be conducted when an ID/IC is detected or suspected, and the source is not readily identifiable. The purpose of the investigation is to locate the source so that measures to eliminate the ID/IC can be implemented. Source investigations will be initiated when appropriate information suggests evidence of an ID/IC.

In order to assist in determining when source investigation studies are warranted, the Dry Weather Monitoring Program (**DAMP Section 11.0**) includes a set of criteria that will trigger focused ID/IC studies by the City when the monitoring data indicate the presence of a problem.

When the County has identified a site that meets the criteria, it will notify the City that follow-up ID/IC efforts may be necessary. However, if the monitoring program finds extreme conditions that represent a clear and immediate risk to human health or receiving water quality, or that provide unambiguous evidence of a substantial



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

upstream problem, then this routine procedure will be bypassed and the relevant inspector for that City will be notified immediately.

In both kinds of instances, if the monitored site is near a jurisdictional boundary and the upstream drainage network for the site extends into a neighboring jurisdiction, both the jurisdiction containing the site as well as the jurisdiction containing the upstream portion of the drainage network will be notified.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.5.2 Tracking a Pollutant Upstream

Once the City Authorized Inspector is notified of the potential problem and it is determined that a source investigation is warranted, the approach used for tracking a pollutant source upstream or identifying an illicit connection will primarily involve the steps as outlined in the **DAMP Section 10** including:

- Step One - Initial Screening
- Step Two - Source Evaluations and Inspections
- Step Three - Monitoring
- Step Four - Document, Notify and Report

### A-10.5.3 Elimination of ID/ICs

Depending on the type of ID/IC detected, the City will eliminate any discharge or connection by means of appropriate legal procedures. ID/ICs will be eliminated by contacting the appropriate supervisor who oversees the activities resulting in the discharge and notifying the individual of necessary actions.

The City's Division of Code and Water Quality Enforcement will direct the above activities, and will set a deadline for correcting the infraction. In the event that the Division of Code and Water Quality Enforcement determines that the individual responsible for the ID/IC is incapable of performing the actions by the compliance date, or if the individual chooses not to perform the activities, the City may conduct the necessary measures, and charge the resulting costs to the individual.

Follow-up will be conducted to ensure that abatement activities have been successfully and adequately implemented.

### **A-10.6 Education and Enforcement**

Enforcement activities within the City of Newport Beach are undertaken according to the adopted Water Quality Ordinance and accompanying Enforcement Consistency Guide (**DAMP Exhibit 4.I**). Water pollution cases may be handled administratively or in more serious instances, be prepared for prosecution.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

The City of Newport Beach has formerly designated the staff responsible for carrying out the enforcement services according to the Enforcement Consistency Guide and updates these designations every year as a part of the Annual Progress Report.

The City of Newport Beach generally utilizes the following types of remedies including:

- Educational letters;
- Administrative Remedies – Notice of Violation, Administrative Citations
- Criminal Remedies – Misdemeanors, Infractions, Issuance of Citations; and
- Other civil or criminal remedies as appropriate

### A-10.6.1 Choosing the Type of Enforcement

The Enforcement Consistency Guide provides a framework to the Permittees for selecting the type of enforcement that should be pursued. Some of the factors that influence this decision include the duration and significance of the violation or threat, the cooperativeness and willingness of the responsible party to remedy the conditions, whether the incident is isolated or re-occurring and whether the violation or threat will affect or harm human health or the environment.

In order to be consistent countywide, the City of Newport Beach's staff use the Enforcement Options Diagram along with the Enforcement Response Matrix (**Exhibit A-10.II**) to assist them in determining which type of enforcement action should be used for any given incident.

### The Enforcement Response Matrix

- Identifies common types of complaints and violations;
- Identifies a range of initial and follow up responses;
- Defines a range of enforcement actions based on the nature and severity of the violations; and
- Designates personnel responsible for administering each of these responses.

Although the discussion below provides some guidelines on the use of various enforcement tools, the Enforcement Consistency Guide is the primary document for the enforcement procedures and processes and is consulted when enforcement options are being considered or appeals of enforcement remedies have occurred.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.6.2 Educational Letters

Although the Authorized Inspectors primarily rely on the administrative remedies as discussed below, there are a few occasions when the City of Newport Beach uses enforcement letters.

These situations may occur when:

- An authorized inspector believes that the water pollution complaint may be valid, but does not have evidence to substantiate it; and/or
- A second party, or resident, hires a contractor who causes an incident. In this case the contractor should receive the administrative remedy and the resident should receive an educational letter.

**Exhibit A-10.II** provides examples of the type of enforcement letter that the city sends to businesses and residents and includes information on language that can be inserted when providing information on alternative methods of disposal for a particular type of material.

Educational brochures, pamphlets, posters, magnets, etc. are included with the letter so that the responsible party has additional information regarding the proper handling/disposal of the materials involved in the complaint (e.g. pool water, concrete, dog waste, etc.).

Examples of the types of educational materials that are distributed include the following:

- |  |  |
|--|--|
| <input type="checkbox"/> Carpet Cleaners   | <input type="checkbox"/> Dog Waste                     |
| <input type="checkbox"/> Restaurant Cleaning                                       | <input type="checkbox"/> Pool Maintenance              |
| <input type="checkbox"/> Automotive Service Center                                 | <input type="checkbox"/> Waste Oil Collection          |
| <input type="checkbox"/> Gas Station   | <input type="checkbox"/> Pest Control Products         |
| <input type="checkbox"/> Horse and Livestock                                       | <input type="checkbox"/> Permitted Lot and Pool Drains |
| <input type="checkbox"/> Public Service Video (Water Quality & NPDES Requirements) | <input type="checkbox"/> Car Wash Fundraisers          |



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.6.3 Administrative Remedies

The City of Newport Beach generally utilizes the following types of administrative remedies (**Exhibit A-10.II**) including:

- Informational Letter of Violation
- Notices of Violation – This is an effective enforcement tool and constitutes a basic request that the responsible party rectify the condition causing or threatening to cause a violation of the Ordinance.

The Notice of Violation may be issued when one or more of the following circumstances exist:

- The violation or threat is not significant and has been short in duration
- The responsible party is cooperative and has indicated a willingness to remedy the conditions
- The violation or threat is an isolated incident
- The violation or threat does not affect and will not harm human health or the environment

Prior to the issuance of an Administrative Citation to the responsible party, the Permittee may first issue a Notice of Violation, which states the act or acts constituting the violation and directs that the violation be corrected.

The Notice of Violation should provide the responsible party with a reasonable time period to correct the violation before further proceedings are brought against them. However, a Notice of Violation should not be the first enforcement method used if egregious or unusual circumstances indicate that a stronger enforcement method is appropriate.

- Administrative Citations – This is an appropriate enforcement tool in the following circumstances:
  - An actual condition of Non-compliance exists, but the condition cannot be remedied within a relatively short period of time
  - The owner of the property or facility operator has indicated a willingness to come into compliance by meeting guidelines established within a reasonable schedule
  - The violation does not pose an immediate or significant threat to human health or the environment



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

- An Administrative Citation is punishable by a fine of not more than \$100 for a first violation, \$200 for a second violation, and a fine not exceeding \$500 for each additional violation occurring within one year.
- Other Administrative Procedures or Civil Actions
  - Where the city has issued a local permit, the AI may elect to initiate administrative proceedings to suspend, revoke or modify the permit if the permit terms are violated or if violations of the conditions occur
  - In consultation with the Enforcing Attorney, the AI may also consider the use of an injunction or other civil or criminal enforcement proceedings

### A-10.6.4 Criminal Remedies

Criminal enforcement is appropriate when evidence indicates that the responsible party has acted willfully with intent to cause, allow to continue, or conceal a discharge in violation of the Ordinance.

The Permittees generally utilize three types of criminal remedies

- Issuance of Citation (Notice to Appear)- Where criminal enforcement is indicated, the AI may cause issuance of a citation to the responsible party. The citation shall include:
  - The name and address of the violator
  - The provisions of the Ordinance violated
  - The time and place of required appearance before a magistrate

The responsible party must sign the citation thereby promising to appear. If the cited party refuses to sign the citation, the AI may cause the arrest of the discharger.

- Infractions - At the discretion of the Enforcing Attorney, misdemeanor acts may be treated as infractions. Factors that the EA may use in determining whether the misdemeanor is more appropriately treated as an infraction may include:
  - The duration of the violation or threatened violation
  - The compliance history of the person, business or entity
  - The effort made to comply with an established compliance schedule
  - The existence of prior enforcement actions
  - The actual harm to human health or the environment from the violation



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

An infraction is punishable by a fine of not more than \$500 or six months in jail, or both.

- Misdemeanors – Criminal enforcement is appropriate when evidence of a violation indicates that the violator of the Ordinance has acted willfully with intent to cause, allow to continue or conceal a discharge in violation of the Ordinance. Included in **Exhibit A-10.II** is the case template that the City of Newport Beach uses when developing a case against a responsible party.

### A-10.6.5 Administrative Hearings

The ordinance provides for appeals of the Authorized Inspector's decisions to a designated Hearing Officer. The final decision of the Hearing Officer is appeal able to the court with proper jurisdiction under statutory review procedures. For further information on the administrative hearing process see the Enforcement Consistency Guide.

### **A-10.7 Training and Outreach**

Education and training of municipal and/or other agency staff is one of the keys to a successful stormwater program. This is especially true with the ID/IC program because the Permittees will be in the public eye when conducting extensive investigation efforts and proceeding with enforcement actions. To assist the City of Newport Beach's municipal and/or other agency staff in understanding the Illegal Discharges and Illicit Connections Program, several different annual training sessions have been or are being developed (**DAMP Appendix B-10**).

In addition to Permittee sponsored training, staff are also encouraged to attend training seminars or workshops related to stormwater management and water quality conducted by other organizations.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.7.1 Training Modules

In order to adequately address the different areas of the Illegal Discharge and Illicit Connection Program element, four training modules have been developed.

The four training modules are:

- *ID/IC Program Management Training (Exhibit B-10.I)*

This training module is generally targeted for stormwater program managers and will address the overall program framework, objectives and approach so that they may gain a broader understanding of how the program is developed and implemented at a local level. It also includes the tools necessary to determine program responsibilities, conduct investigations, utilize proper enforcement procedures and report incidents of non-compliance.

- *ID/IC Program Authorized Inspector Training (Exhibit B-10.II)*

This training module is generally targeted for authorized inspectors, spill responders and/or code enforcement officers and will address the responsibilities of the field personnel implementing the ID/IC Program. This training will include reporting requirements, spill response, inspection, clean-up and enforcement procedures.

- *ID/IC Program Sewage Spill Response Training (Exhibit B-10.III)*

This training module is generally targeted for municipal authorized inspectors or spill responders as well as sanitation district staff and specifically focuses on the responsibilities of the field personnel in responding to sewage spills. The training will address a sewage spill from both the sanitation and municipal perspective and provide a framework for the responders to follow when responding to ensure that both sets of objectives are met.

- *ID/IC Emergency Personnel Responders Training (Exhibit B-10.IV)*

This training module is generally targeted for fire and police department responders and focuses on the responsibilities that they have in responding to various types of water pollution complaints. The training will discuss the general response framework for the ID/IC program and discuss BMPs that should be used in emergency and non-emergency incidents.



## SECTION A-10, ILLEGAL DISCHARGES/ILLICIT CONNECTIONS

---

### A-10.7.2 Record Keeping

Records of training provided to staff are maintained to allow for a better determination of:

- Which staff require which training
- When training sessions were conducted
- Compliance with the permit requirements

### **A-10.8 Program Effectiveness Assessment**

The overall Program Effectiveness Assessment (PEA) serves as the foundation for the submittal of the annual progress report that is submitted each year to the Principal Permittee and subsequently to the Regional Boards and serves as the basis for evaluating each municipality's individual ID/IC efforts (See **DAMP Appendix C-10**).

The PEA allows each municipality to assess the effectiveness of their individual storm water program components including those focused on the detection and elimination of illegal discharges and illicit connections. The ID/IC program effectiveness evaluation will allow the City to assess the effectiveness of their local program by focusing on the data collected from the spill response, investigation and enforcement activities.