

TITLE 9

DIVISION 31: STORM WATER CONTROL

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CHAPTER 1: GENERAL PROVISIONS & DEFINITIONS

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§ 93101.00 TITLE & PURPOSE

The County Board of Supervisors finds and declares that:

- A. The Federal Clean Water Act, the implementing regulations for the National Pollutant Discharge Elimination System (NPDES), and the California Porter-Cologne Water Quality Control Act provide for the regulation and reduction of pollutants discharged to waters of the State and United States by extending NPDES requirements to storm water and urban runoff discharges to and from the storm water conveyance system.
- B. The County is required to enroll as a permittee under the State of California's Waste Discharge Requirements for Small Municipal Separate Storm Sewer Systems (Order No. 2013-0001-DWQ) and the NPDES General Permit No. CAS000004 (General Permit).
- C. Under the provisions of the General Permit, the County is required to possess the necessary legal authority and implement appropriate procedures to regulate the entry of pollutants and non-storm water discharges into the storm water conveyance system.
- D. This Division shall be known as the "Storm Water Control Ordinance" and may be cited as such.
- E. The purpose of this Division is to ensure the health, safety and general welfare of citizens, and to protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) and the Porter-Cologne Water Quality Control Act (Water Code § 13000 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by effectively prohibiting non-storm water discharges to the storm water conveyance system.
- F. Agricultural activities have been exempted from the requirements of this Division to the extent permitted by law.

§ 93101.01 DEFINITIONS

For the purposes of this Division, the following words and phrases shall have the meanings ascribed to them by this Chapter. Words and phrases not ascribed a meaning by this Chapter shall have the meanings ascribed by the regulations implementing the National Pollutant Discharge Elimination System, Clean Water Act Section 402, and Division 7 of the California Water Code, as they may be amended from time to time, if defined therein, and if not, to the definitions in any applicable permit issued by the Regional Board, as appropriate, as such permits may be amended from time to time.

- A. Animal Waste – means waste generated by or produced from animals, including but not limited to animal fecal material.
- B. Best Management Practices (BMPs) – means the structural controls and non-structural controls including schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the storm water conveyance system and waters of the United States, and to prevent or reduce the pollution of waters of the United States. BMPs include but are not limited to:
 - 1. Treatment Requirements;
 - 2. Operating and maintenance practices to control runoff, sludge, waste disposal, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage;
 - 3. Erosion and sediment control practices; and
 - 4. The prohibition of specific activities, practices and procedures, and other such provisions as the County determines appropriate for the control of pollutants.
- C. CASQA – means California Stormwater Quality Association.
- D. Clean Water Act (Act) – means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- E. County – means in the County of Imperial, State of California.
- F. Discharge – means the release or placement, either directly or indirectly, of any substance into or from the storm water conveyance system, including, but not limited to:
 - 1. Storm water;
 - 2. Wastewater;
 - 3. Solid materials;
 - 4. Liquids;
 - 5. Hazardous materials
 - 6. Raw materials;
 - 7. Debris; and
 - 8. Litter.
- G. Enforcement Agency – means the County of Imperial or its authorized agents charged with ensuring compliance with this Division.
- H. General Permit – means the Waste Discharge Requirements for Small Municipal Separate Storm Sewer Systems (Order No. 2013-0001-DWQ) and the National Pollutant Discharge Elimination System General Permit No. CAS000004, including any amendments thereto or successor permit, issued by the State Board under which the County must enroll as a Permittee.
- I. Hazardous Materials or Hazardous Substances – means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials include but are not limited to those specified in California Health and Safety Code, Section 25117 and in 40 C.F.R part 116.
- J. Illicit Connection – means any of the following:
 - 1. Any conveyance system, whether on the surface or subsurface, which allows an illicit discharge to enter the storm water conveyance system.
 - 2. Any connection to the storm water conveyance system from indoor drains and sinks.

3. Any unpermitted connection of a storm water conveyance system to the publicly owned treatment works.
 4. Any pipes, drains, open channels or other conveyances that have a potential to allow an illicit discharge to enter the storm water conveyance system.
- K. Illicit Discharge – means any discharge to the storm water conveyance system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non-storm water discharges and discharges that are identified under the Discharge Prohibitions section of the General Permit. Illicit discharge includes discharges from organized car washes, mobile cleaning, and pressure wash operations discharged to the MS4.
- L. Incidental Runoff – means the unintended amounts (volume) of minimal runoff that escapes the area of intended use. Water leaving an intended use area is not considered incidental if:
1. It is part of the facility design;
 2. It is due to excessive application;
 3. It is due to intentional overflow or application; or
 4. It is due to negligence.
- M. National Pollutant Discharge Elimination system (NPDES) Permit – means a permit issued by either the Regional Board or the State Board pursuant to the Clean Water Act and the Porter-Cologne Water Quality Control Act to control discharges from point sources to waters of the United States.
- N. New Development – means:
1. Land disturbing activities;
 2. Structural development, including construction or installation of a building or structure;
 3. Creation of impervious surfaces; and
 4. Land subdivision on an area that has not been previously developed.
- O. Non-Storm Water Discharge – means any discharge to the storm water conveyance system that is not composed entirely of storm water.
- P. Person – means any individual, as well as any corporation, partnership, public agency, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of the above.
- Q. Pollutant – means anything that causes or contributes to pollution. Pollutants may include, but are not limited to:
1. Paints, varnishes, and solvents;
 2. Oil and other automotive fluids;
 3. Non-hazardous liquid and solid wastes;
 4. Yard wastes;
 5. Refuse, rubbish, garbage, litter, wrecked or discarded equipment, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution;
 6. Floatables;
 7. Pesticides, herbicides, and fertilizers;
 8. Hazardous substances and wastes;
 9. Sewage, sewage sludge, fecal coliform and pathogens;
 10. Dissolved and particulate metals;
 11. Animal wastes;

12. Agricultural wastes;
 13. Wastes and residues that result from constructing a building or structure including but not limited to sediments, slurries, and concrete residuals;
 14. Rock, sand, and cellar dirt;
 15. Industrial waste;
 16. Municipal waste;
 17. Noxious or offensive matter or of any kind;
 18. Dredged spoil;
 19. Incinerator residue;
 20. Filter backwash;
 21. Munitions;
 22. Chemical wastes;
 23. Biological materials;
 24. Radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.); and
 25. Heat.
- R. Pollution – means an alteration of the quality of the waters of the state by waste to a degree that unreasonably affects the beneficial uses of the water or facilities that serve those beneficial uses.
- S. Premises – means any building, lot, parcel of land, or portion thereof, whether improved or unimproved, including adjacent sidewalks and parking strips.
- T. Prohibited Discharge – means any direct or indirect discharge to the storm water conveyance system or to natural creeks and small streams, which is not otherwise specifically authorized by this Chapter, the State or Regional Board, State or Federal law, or an NPDES permit.
- U. Receiving Waters – means surface water that receives regulated and unregulated discharges from activities on land.
- V. Redevelopment – means land disturbing activity that results in the creation, addition, or replacement of exterior impervious surface area on a site on which some past development has occurred.
- W. Regional Board – means the California Regional Water Quality Control Board, Colorado River Region.
- X. Responsible Person – means:
1. Any person who owns, operates, leases, or has control over the day-to-day activities of a premises; and
 2. Any person who facilitates, causes, or permits any discharge.
- Y. Restaurant – means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption, in accordance with Standard Industrial Classification Code 5812, or its equivalent.
- Z. State Board – means the State Water Resources Control Board.
- AA. Source Control – means land use or site planning practices, or structural or nonstructural measures, that aim to prevent runoff pollution by reducing the potential for contact with rainfall runoff at the source of pollution. Source control BMPs minimize the contact between pollutants and urban runoff.
- AB. Storm Water Conveyance System –
1. Means the infrastructure in a municipal separate storm sewer system (MS4) that collects and conveys storm water runoff, whether publically or privately owned, and includes but is not limited to:

- a. Roads;
- b. Sidewalks;
- c. Gutters;
- d. Curbs;
- e. Inlets;
- f. Piped storm drains;
- g. Pumping facilities;
- h. Retention and detention basins;
- i. Natural and human-made or altered drainage channels and swales;
- j. Reservoirs, creeks, waters of the United States; and
- k. Other drainage structures that are within the County's jurisdiction, and are not part of a publicly owned treatment works (POTW) as defined in Title 40 Section 122.2, of the Code of Federal Regulations.

- 2. The County's Storm Water Conveyance System does not include the Imperial Irrigation District's Agricultural Drain System.

AC. Storm Water – means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation. Storm water runoff is generated when precipitation flows over land or impervious surfaces and does not percolate into the ground.

AD. Threatened Prohibited Discharge – means any condition or activity that does not currently result in a prohibited discharge, but is nevertheless determined by the Enforcement Agency to be a condition which results in a substantial likelihood of a future prohibited discharge.

AE. Watercourse – means a natural or artificial channel, above or below ground, through which water may flow, excluding pipelines.

AF. Waters of the State – means any surface water or ground water, including saline waters, within the boundaries of the State of California.

AG. Waters of the United States – means the surface watercourses and water bodies as defined in 40 CFR 122.2, including all natural waterways, definite channels, and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms, and may not carry storm water at and during all times and seasons.

§ 93101.02 RESPONSIBILITY FOR ADMINISTRATION

- A. The Enforcement Agency shall administer, implement, and enforce the provisions of this Division.
- B. The Enforcement Agency, with the consent of County Board of Supervisors, is hereby authorized to establish any rules and regulations necessary for the enforcement of this Division, and may delegate and appoint employees of the County to act on its behalf.

§ 93101.03 REGULATORY CONSISTENCY

This Division shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Water Quality Control Act, as they now exist or may hereafter be amended, any Permit issued under these Acts, and any applicable regulations.

§ 93101.04 ULTIMATE RESPONSIBILITY FOR DISCHARGES

- A. The standards set forth herein and promulgated pursuant to this Division are minimum standards.

- B. This Division does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the State or United States. This Division shall not create liability on the part of the County of Imperial, or any agent or employee thereof, for any damages that result from any discharger's reliance on this Division or any administrative decision lawfully made under this Division.
- C. This Division shall not create liability on the part of the County of Imperial, or any agent or employee thereof, for any damages that result from any discharger's reliance on this Division, or any administrative decision lawfully made under this Division.

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TITLE 9

DIVISION 31: STORM WATER CONTROL

CHAPTER 2: PROHIBITIONS

§ 93102.00	PROHIBITED DISCHARGES
§ 93102.01	CONDITIONAL EXEMPTIONS TO PROHIBITED DISCHARGES
§ 93102.02	ILLICIT DISCHARGES AND CONNECTIONS PROHIBITED
§ 93102.03	RUNOFF IN EXCESS OF INCIDENTAL RUNOFF
§ 93102.04	CONTAINMENT AND NOTIFICATION OF SPILLS

§ 93102.00 PROHIBITED DISCHARGES

Except as provided in Section 93102.01, no person shall discharge, facilitate, cause, permit, or allow to be discharged to the storm water conveyance system, either directly or indirectly, any of the following:

- A. Any non-storm water, except in compliance with the requirements of this Division;
- B. Any storm water that may cause or threaten to cause a condition of pollution or nuisance, as defined in California Water Code section 13050;
- C. Any storm water that may cause, threaten to cause, or contributes to an exceedance of any water quality standard in a Statewide Water Quality Control Plan, the California Toxics Rule, or the Basin Plan;
- D. Storm water containing hazardous substances;
- E. Runoff in excess of incidental runoff as defined by the State of California Department of Water Resources Phase II Small MS4s General Permit (Order No. 2013-00001-DWQ); and
- F. Any other storm water identified by the Enforcement Agency to be significant source of pollutants.

§ 93102.01 CONDITIONAL EXEMPTIONS TO PROHIBITED DISCHARGES

The following non-storm water and storm water discharges to the storm water conveyance system are exempt from the prohibition set forth in Section 92102.00, unless the Enforcement Agency determines such discharge to be a significant source of pollutants, to pose a threat to water quality standards, discharge to an Area of Special Biological Significance, or otherwise meet the requirements of Section 93102.00:

- A. Any discharge permitted under a NPDES permit, waiver, or formal policy, and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that:
 1. The discharger is in full compliance with all requirements of the permit, waiver, or policy, and other applicable laws or regulations; and
 2. Written approval, if required, has been granted by the County for any discharge to the storm water conveyance system.
- B. Agricultural storm water runoff, pursuant to 40 CFR § § 122.3(e) and 122.26, and State Board Order R7-2015-0008;
- C. Water line flushing;
- D. Individual residential car washing;
- E. Diverted stream flows;
- F. Rising ground waters;
- G. Uncontaminated groundwater infiltration (40 CFR § 35.2005(20)) to the storm water conveyance system.

- H. Uncontaminated pumped ground water;
- I. Discharges from potable water sources;
- J. Foundation drains;
- K. Air conditioning condensation;
- L. Springs;
- M. Water from crawl space pumps;
- N. Footing drains;
- O. Flows from riparian habitats and wetlands;
- P. Dechlorinated swimming pool discharges; and
- Q. Discharge or flow from fire-fighting activities.

§ 93102.02 ILLICIT DISCHARGES AND CONNECTIONS PROHIBITED

- A. It shall be unlawful for any person to commence, establish, use, permit, maintain, cause to establish, or continue any illicit connection to the County storm water conveyance system or continue any illicit discharge to the storm water conveyance system.
- B. Discharges through the County storm water conveyance system of material other than storm water to waters of the U.S. Shall be effectively prohibited, except as allowed under Section 93102.01 or otherwise authorized by a separate NPDES permit, waiver, or formal policy.
- C. Every responsible person for any premises from which there occurs any illicit discharge or any discharge to the storm water conveyance system that is prohibited by this Division shall immediately take action to eliminate the source of the discharge, prevent the illicit discharge or the occurrence of future illicit discharges.

§ 93102.03 RUNOFF IN EXCESS OF INCIDENTAL RUNOFF

- A. Every responsible person for any premises from which runoff in excess of incidental runoff originates shall take the following actions to control such excess runoff:
 - 1. Detect leaks (for example, from broken sprinkler heads) and correct the leaks within seventy-two (72) hours of learning of the leak;
 - 2. Property design and aim sprinkler heads; and
 - 3. Cease irrigation activities during rain events; except that any premises that are zoned as A-1, A-2, or A-3, and are actively engaged in agricultural production during the time of rain events, shall be exempt from this requirement.
- B. Non-storm water runoff discharge that is not incidental is prohibited unless otherwise specified in Section 93102.01.

§ 93102.04 CONTAINMENT AND NOTIFICATION OF SPILLS

Any person owning or occupying a premises who has knowledge of any release of pollutants or illicit discharge from or across those premises which might enter the storm water conveyance system or waters of the State or United States, other than a release or discharge that is permitted by this Division, shall take action to contain and abate the release of pollutants or illicit discharge that is permitted by this Division, shall take action to contain and abate the release of pollutants or illicit discharge, and shall notify the Enforcement Agency within twenty-four (24) hours of the release of pollutants or illicit discharge.

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CHAPTER 3: REDUCTION OF POLLUTANTS IN STORM WATER

- § 93103.00 AUTHORIZATION TO ADOPT AND IMPOSE BEST MANAGEMENT PRACTICES (BMPs)
- § 93103.01 RESPONSIBILITY TO OBTAIN PERMITS AND IMPLEMENT BMPs
- § 93103.02 WASTE DISPOSAL

§ 93103.00 AUTHORIZATION TO ADOPT AND IMPOSE BEST MANAGEMENT PRACTICES (BMPs)

Each responsible person for any site, activity, operation, or facility that may discharge any pollutant to the storm water conveyance system shall implement those BMPs as may be designated by the Enforcement Agency.

§ 93103.01 RESPONSIBILITY TO OBTAIN PERMITS AND IMPLEMENT BMPs

- A. Any person engaged in operation of a construction site, acquisition of new land, redevelopment of existing land, commercial or industrial activities or operations, or owning commercial or industrial facilities or property which will, or may, result in pollutants entering storm water, the storm water conveyance system, or receiving waters, shall first obtain any required NPDES storm water permit, and shall install and maintain BMPs consistent with the CASQA Industrial/Commercial BMP Handbook or equivalent as specified by the Enforcement Agency, or as otherwise specified by this Division.
- B. BMPs must be designed to implement the requirements of this Division and any applicable permit.
- C. The Enforcement Agency may require documentation demonstrating coverage by and compliance with any applicable permit, including copies of any notice of intent, storm water pollution prevention plans, inspection reports, monitoring results, and other information deemed necessary to assess compliance with this Division or any NPDES permit.

§ 93103.02 WASTE DISPOSAL

Waste shall be disposed of in conformance with Chapter 8.73 of the Imperial County Code of Ordinances.

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CHAPTER 4: CONSTRUCTION PHASE STORM WATER CONTROL

- § 93104.00 COMPLIANCE WITH THE STATE CONSTRUCTION GENERAL PERMIT
- § 93104.01 EROSION AND SEDIMENT CONTROL PLAN REQUIREMENT
- § 93104.02 STOP WORK ORDERS

§ **93104.00 COMPLIANCE WITH THE STATE CONSTRUCTION GENERAL PERMIT**

- A. Every project in the unincorporated areas of Imperial County within the Colorado River Basin Regional Water Quality Control Board jurisdiction that disturbs one (1) acre or more of soil, or disturbs less than one (1) acre but is part of a larger common plan of development or sale, is subject to the State Construction General Permit (CGP), and shall comply with all provisions of such permit.
- B. Proof of compliance with the CGP is required prior to obtaining a grading or building permit.

§ **93104.01 EROSION AND SEDIMENT CONTROL PLAN REQUIREMENT**

- A. Any project, regardless of size, shall develop and submit a site specific Erosion and Sediment Control Plan when applying for a grading or building permit.
- B. The Plan must meet the County's *Engineering Design Guidelines Manual for the Preparation and Checking of Street Improvement, Drainage and Grading Plans, Department of Public Works, Engineering Division*.
- C. The Enforcement Agency may require implementation of specific BMPs as part of the Erosion and Sediment Control Plan.

§ **93104.02 STOP WORK ORDERS**

In addition to any available remedies, the Enforcement Agency may issue a stop work order for any construction activity that is creating a non-storm water discharge or any discharge in violation of this Division.

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CHAPTER 5: POST-CONSTRUCTION PERMANENT STORM WATER CONTROLS

- § 93105.00 POST-CONSTRUCTION REQUIREMENTS
- § 93105.01 POST-CONSTRUCTION CONTROLS

§ 93105.00 POST-CONSTRUCITON REQUIREMENTS

Development and redevelopment projects in the unincorporated areas of Imperial County within the Colorado River Basin Regional Water Quality Control Board jurisdiction must implement the post-construction storm water pollutant controls indicated in this Chapter.

- A. Failure by the owner of the property, or its successors or assigns, to implement and adhere to the terms, conditions, and requirements imposed pursuant to this section shall constitute a violation of this Division.
- B. The Enforcement Agency may require the responsible person for any new development and redevelopment project to enter into an agreement for the operation and maintenance of any storm water structural control measures and to record such agreement with the County Recorder's office.

§ 93105.01 POST-CONSTRUCTION CONTROLS

Permanent control measures (BMPs) for regulated projects as defined by Order No. 2013-0001-DWQ shall be according to the approved *Engineering Design Guidelines Manual for the Preparation and Checking of Street Improvement, Drainage and Grading Plans, Department of Public Works, Engineering Division.*

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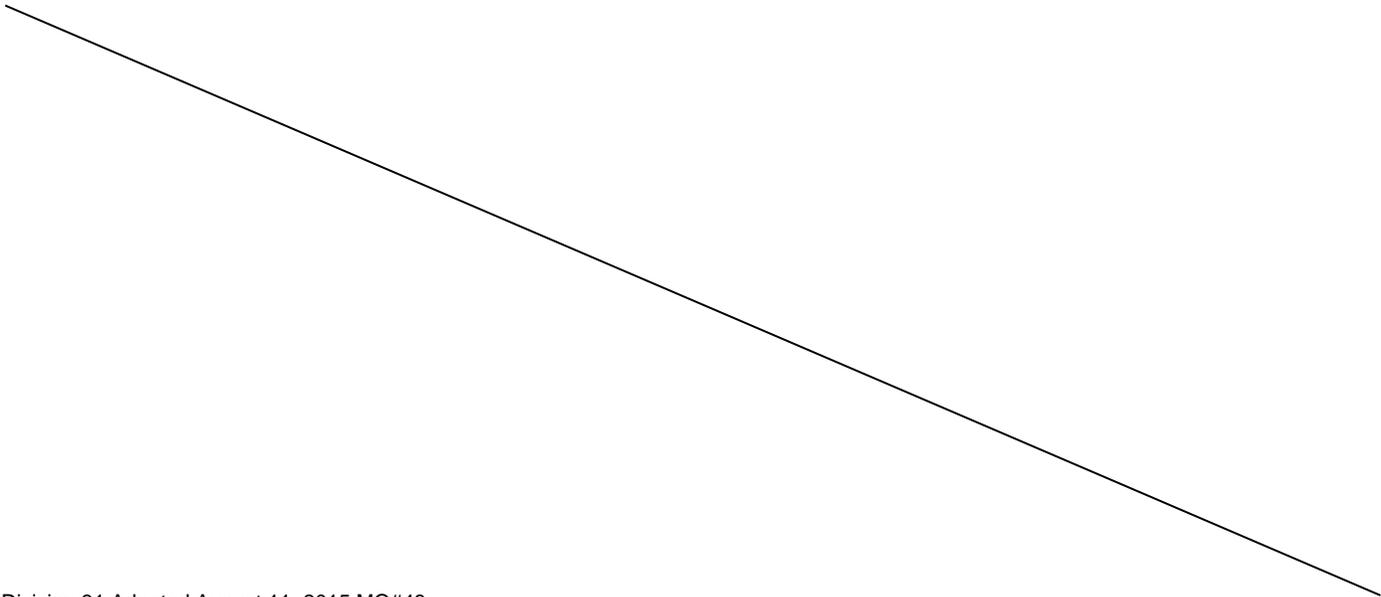
CHAPTER 6: INSPECTION AND ENFORCEMENT

§ 93106.00 ENFORCEMENT AUTHORITY

§ 93106.00 ENFORCEMENT AUTHORITY

- A. The Enforcement Agency may exercise any enforcement powers as provided in the Imperial County Code of Ordinances Title 9, Division 13, as may be necessary to effectively implement and enforce this Division.
- B. In addition to the general enforcement powers provided in Imperial County Code of Ordinances Title 9, Division 13, the Enforcement Agency may exercise any of the following supplemental enforcement powers as may be necessary to fulfill the purposes of this Division:
 - 1. Cease and Desist.
 - a. The Enforcement Agency may require any person responsible for an illicit discharge, pollutant release, or threatened prohibited discharge to immediately cease and desist such activity or discharge, to contain any discharge, release, or spill, and to clean the area within seventy-two (72) hours of notification. The Enforcement Agency may require the property owner and the responsible person to abate and clean up the discharge, spill, or pollutant, and to implement BMPs immediately, or by a specified time or date.
 - b. The Enforcement Agency may require a new timeframe and notify the Regional Board when the Enforcement Agency and responsible person agree that clean-up activities cannot be completed within the original timeframe.
 - 2. Abatement and Clean Up. The Enforcement Agency may require any responsible person to abate and clean up their discharge within thirty (30) days for controlled sources of pollutants that could pose an environmental threat.

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TITLE 9

DIVISION 31: STORM WATER CONTROL

CHAPTER 7: SEVERABILITY

§ 93107.00 SEVERABILITY

§ 93107.00 SEVERABILITY

If any Chapter, Section, Subsection, Sentence, Clause, Phrase, or Portion of this Division is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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