

2.0 ADMINISTRATIVE AND LEGAL PROCEDURES

This section identifies and describes the Authority departments and staff that conduct and/or oversee activities related to SWMP implementation and urban runoff management. This section also addresses the roles and responsibilities of these departments and individuals as required by Provision E.3.e.(b) of the Municipal Permit and Section X.D.1 of the Industrial Permit. Enforcement response procedures can be defined differently, per Provision E.6.d.(1) of the Municipal Permit, and are described for each component in Sections 3.0, 4.0, 5.0, 6.0, and 7.0 of this SWMP.

2.1 DEPARTMENT ROLES AND RESPONSIBILITIES

In June 2015, the Authority filed an NOI to comply with the Industrial Permit. The Authority has elected to assume a lead role with regard to the Industrial Permit. Airport tenants that conduct industrial activities are also subject to the requirements of the Industrial Permit and must comply with the Authority direction regarding storm water management at SAN. This approach (1) conforms to federal regulations, (2) was the preferred option of the SWRCB, and (3) allows for implementation of consistent storm water pollution prevention measures throughout the entire airport site. This approach provides for consistency in the programs that the Authority has developed and implemented to comply with the requirements of both the Industrial Permit and the Municipal Permit.

Several Authority departments share responsibility for the implementation of the SAN SWMP, specifically: the Planning and Environmental Affairs Department (P&EAD), FMD, the Airside & Terminal Operations (A&TO) Department, the ADC Department, the Aviation Security and Public Safety Department, and the Revenue Generation & Partnership Development Department. The Harbor Police Department is also available to assist with enforcement as necessary. The Directors and key staff members from these departments are integral for efforts to eliminate and reduce pollutants in the storm water that discharges from SAN. Together, they ensure that the Authority complies with the NPDES Permits.

The P&EAD assumes a lead role in performing the following tasks required by the Industrial Permit:

- Conducting meetings with and training of appropriate stakeholders;
- Ensuring the proper implementation of required BMPs;
- Conducting wet and dry season monitoring;
- Conducting wet weather storm water sampling;
- Conducting annual facility inspections of all industrial areas and activities;
- Preparing and submitting an annual report to the RWQCB;
- Uploading the SWPPP section of the SWMP into the Storm Water Multiple Application and Report Tracking System (SMARTS) database;
- Submitting monitoring results onto SMARTS; and
- Revising and updating the SWPPP/SWMP annually, or as necessary.

The P&EAD also assumes a lead role in ensuring that the following tasks are conducted as required by the Municipal Permit:

- Prohibiting all identified illicit discharges;
- Prohibiting and eliminating illicit connections to the MS4;

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- Controlling the discharge of spills, dumping, or disposal of materials other than storm water into the storm drain system at SAN;
- Controlling the contribution of pollutants in discharges of runoff associated with industrial and construction activity;
- Requiring compliance with Authority ordinances, permits, contracts, or orders related to storm water management and/or control, and using escalating enforcement mechanisms as necessary to ensure compliance;
- Controlling the contribution of pollutants from one portion of any shared MS4 to another portion of the MS4 through interagency agreements among Copermittees;
- Conducting all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with local ordinances and permits;
- Requiring the use of BMPs to prevent or reduce the discharge of pollutants into the MS4 to the MEP;
- Requiring and/or preparing documentation of the effectiveness of BMPs implemented to reduce the discharge of pollutants into the MS4 to the MEP;
- Preparing WQIP reports and assessments in coordination with other San Diego Bay WMA Responsible Parties (Responsible Parties);
- Providing the SWMP, WQIP, Annual Reports, and monitoring results to the public; and
- Informing the public of WQIP and SWMP updates and public comment periods or meetings.

The Director of the P&EAD has been duly authorized by the President/Chief Executive Officer (CEO) of SAN as the position having responsibility for overall operation of facilities and activities regulated by the Industrial Permit and Municipal Permit. As such, the Director of the P&EAD signs and certifies all reports and other information required by an NPDES Permit or requested by the United States Environmental Protection Agency (USEPA), SWRCB, or RWQCB.

The FMD conducts many of the municipal activities described in Section 6.0 of this SWMP. The A&TO staff and FMD staff are generally first on scene for spills and other facility maintenance and repair issues. The P&EAD assumes responsibility for determining the need for and reporting, as necessary, any significant incidents of noncompliance to the appropriate agencies. Planning and Noise Division of P&EAD and the ADC are generally responsible for project planning, design, and approval, with assistance as necessary from the P&EAD. The A&TO Department helps the P&EAD coordinate activities with the airport tenants and service providers. The P&EAD and the A&TO Department generally assume responsibility for assisting airport tenants and service providers in maintaining compliance with the Industrial Permit and Municipal Permit. These departments help Authority staff and airport tenants formulate and implement BMPs to prevent storm water contamination from their operational areas/activities.

Table 2-1 presents the departments with roles and responsibilities for implementing various elements of the SAN SWMP. Table 7-1 in Section 7.0 presents the key Authority personnel, listed by department, directly involved with or assisting in the implementation of the SWMP. Figure 8 presents the Authority's organizational chart.

Table 2-1. Authority Departmental Roles and Responsibilities for SWMP Implementation

SWMP Element/Program/Activity	P&EAD – Environmental Affairs	P&EAD - Planning & Noise Mitigation	Facilities Management	Airside & Terminal Operations (A&TO)	Airport Design and Construction	Aviation Security and Public Safety	Harbor Police Department
Administration	P						
Reporting	P	S	S	S	S		
Water Quality Monitoring	P						
Water Quality Sampling	P						
Illicit Discharge Detection and Elimination	P	S	S	S	S	S	
Education and Outreach	P						
Public Participation	P	S		S			
Program Assessment	P						
Fiscal Analysis	P						
Engineering/Design	S				P		
Development Planning/Review/Approval	S	P		S	S		
Construction Inspection/Oversight	P				S		
Municipal Facilities Maintenance/Oversight	S		P				
Airfield Activities Oversight	S			P		S	
Terminal Activities Oversight	S			P		S	
Industrial/Commercial Activities Inspection/Oversight	P		S	S			
Enforcement	P			S	S		S

P= primary responsibility
P&EAD = Planning and Environmental Affairs Department
S = supporting responsibility
SWMP = Storm Water Management Plan

Numerous airport tenants conduct a variety of airport-related support functions at SAN and this SWMP addresses the industrial and commercial activities conducted by these tenants. All tenants and airport service providers with a SIC of air transport or related services are considered Copermittees with the Authority on the Industrial Permit. As such, they play a role in ensuring effective implementation of the SAN SWMP. Tenancy agreements between the Authority and airport tenants contain clauses that require the Airport tenant

to abide by all Authority, local, state, and federal laws and regulations. It is the airport tenants' responsibility to comply with the Industrial Permit and to respond to Authority requests for permit information regarding tenants' facilities, operations, or activities. Each airport tenant or service provider conducting industrial or commercial activities and operations is furnished a copy of this SWMP and is obligated to comply with its requirements. Airport tenants and service providers are also responsible for ensuring that hired contractors or subcontractors comply with the SWMP.

In its management role for the implementation of the SAN SWMP, the Authority ensures that airport tenants comply with the requirements of both the Industrial Permit and the Municipal Permit. Airport tenants that implement their own storm water management programs are still required to comply with the SAN SWMP for operations/activities conducted within the boundaries of SAN.

2.2 LEGAL AUTHORITY

On September 20, 2002, the Authority Board of Directors (Authority Board) adopted Resolution No. 2002-02 amending the Authority Codes to include Section 8.70 to 8.79, known as the "San Diego County Regional Airport Authority Storm Water Management and Discharge Control" and the "Storm Water Code" (Article 8.70). The Authority Codes were further amended by Resolution No. 2018-005 on February 7, 2019.

The Storm Water Code sets forth uniform requirements and prohibitions for dischargers and places of discharge to the storm water conveyance system, and receiving waters, necessary to adequately enforce and administer all laws and lawful standards and orders or special orders, that provide for the protection, enhancement, and restoration of water quality. With respect to environmental and economic considerations, the Authority seeks to reduce pollution entering San Diego Bay from storm water discharges and to protect and promote the public health, safety, and general prosperity of its tenants and the public, and to protect the natural resources and environment by attaining the following objectives as stated in the Storm Water Code:

- Reduce storm water runoff pollution;
- Reduce NSWDS to the storm water conveyance system and receiving waters to the MEP;
- Comply with all federal and state laws, lawful standards, and orders applicable to storm water and urban runoff pollution control;
- Prohibit any discharge that may interfere with the operation of, or cause damage to, the storm water conveyance system, or contribute to the impairment of the beneficial use or violation of a water quality objective of the receiving waters;
- Prohibit illegal discharges and illicit connections to the storm water conveyance system and receiving waters, including prohibiting over-irrigation as an illegal discharge; and
- Develop and implement effective educational outreach programs to educate the public, Authority employees, and tenants on issues of storm water and urban runoff pollution prevention.

The Storm Water Code provides for the prevention, control, treatment, diversion, and regulation of discharges to the storm water conveyance system and receiving waters, through a program of education and enforcement of general and specific prohibitions and requirements. The Storm Water Code applies to all dischargers and places located on property within the Authority's jurisdiction that discharge storm water or non-storm water into any storm water conveyance system or receiving waters. The Authority's President/CEO or his or her designee administers, implements, and enforces the provisions of the Storm Water Code.

Any person violating any of the provisions or failing to comply with the mandatory requirements of the Storm Water Code is guilty of a misdemeanor unless such violation or failure is declared to be an infraction by the Code.

In August 2016, the RWQCB audited the Authority's SWMP to assess whether the Authority storm water management program was in compliance with the requirement of the 2013 Municipal Permit for the active and effective implementation of the over-irrigation prohibition. The 2013 Municipal Permit was significantly changed, compared to previous permits, with the removal of irrigation runoff as a non-prohibited NSWD, provided that it was not identified as a significant source of pollutants, in which case it was required to implement appropriate controls to reduce the discharge of pollutants to the MEP. However, the RWQCB identified NSWDs associated with over-irrigation as a significant source of pollutants to receiving waters, hence included it as a prohibited NSWD in the 2013 Municipal Permit. In the RWQCB Audit Report, they found the Authority had not updated its municipal ordinance to reflect the requirements of the MS4 Permit amended in 2015. In response to the audit report finding, the Authority Board adopted Resolution No. 2018-0053, as outlined above to highlight the prohibition of over-irrigation and identification of over-irrigation as an illegal discharge.

2.2.1 CERTIFICATION OF LEGAL AUTHORITY

Attached at the front of this SWMP is the authorization from the Authority's President/CEO to assign the Director of the P&EAD as the Duly Authorized Representative (DAR) [40 Code of Federal Regulations (CFR) 122.22(b)] i.e., the position having responsibility for overall operation of facilities and activities regulated by the Industrial Permit and Municipal Permit, and a signed, certified statement [40 CFR 122.22(d)] from the DAR, as required by Municipal Permit Attachment B, Provision I.k. As such, the Director of the P&EAD signs and certifies all reports and other information required by an NPDES Permit or requested by the USEPA, SWRCB, or RWQCB.

2.3 ENFORCEMENT

The Authority's P&EAD staff members (and other appropriate Authority staff members) are required to inspect Authority, airport tenant operations/activities, and construction areas and activities for compliance with all storm water pollution prevention requirements. If an incidence or evidence of noncompliance is observed, the inspector has the authority to enforce storm water pollution prevention requirements by implementing the Authority Storm Water Code. An escalation in enforcement is typically applied by Authority staff to stop and correct incidents of noncompliance, as described below.

Depending on the severity of the violation, enforcement can range from a verbal warning to civil and/or criminal court actions. In addition, if the noncompliance is the result of negligence by Authority staff, the enforcement action may include disciplinary action. If the noncompliance is a result of negligence by a contractor to the Authority, the enforcement action could range from a verbal warning to withholding of contract payment, assessment of fines, civil and/or criminal court actions. The Authority enforcement program seeks to accomplish the following goals:

- Limit environmental impacts resulting from noncompliant activities or conditions;
- Educate the regulated community (Authority staff, airport tenants and service providers, and contractors);
- Promote compliance with laws and regulations;
- Return violators to compliance in a timely manner;
- Initiate and conclude enforcement activities in a timely manner;
- Penalize violators, as appropriate, and deprive violators of any significant benefit gained from violations;
- Prevent any business from having an unfair business advantage through noncompliance; and

- Treat similar airport tenants, service providers, and contractors equally and consistently with regard to the same types of violations.

The Authority employs several enforcement mechanisms and penalties to ensure compliance with its ordinances. The levels of enforcement and associated penalties are typically issued and escalated at the discretion of the enforcement officer with consideration of relevant circumstances regarding the violation.

The P&EAD will conduct follow-up inspections to determine whether corrective actions have been taken in accordance with the corrective action orders, the Authority's ordinances, and the minimum BMP requirements. Escalating enforcement procedures, which provide flexibility in the establishment of appropriate compliance time frames, are implemented as needed. The procedures for escalated enforcement specific to each component are described in their corresponding sections (Sections 3.7, 4.9, 5.6, 6.10, and 7.0). If a significant and/or immediate threat to water quality (TTWQ) is observed, appropriate actions will be taken to require the responsible party to immediately cease the discharge and/or correct the situation.

Sections 2.3.1 through 2.3.9 discuss typical escalating enforcement procedures.

2.3.1 VERBAL WARNINGS

A common initial method of requesting corrective action and enforcing compliance is a verbal warning from the inspector to the responsible party. Verbal warnings are often sufficient to achieve correction of the violation, often while the inspector is present. The inspector will notify the responsible party and the facility/operation supervisor of the violation and will document the violation and the notification to the project supervisor in the inspection file. A specific time frame for correcting the problem and a follow-up inspection date will be documented by the inspector. In judging the degree of severity, the inspector may also take into account any history of similar or repeated violations by the responsible party at this or other sites.

2.3.2 WRITTEN WARNINGS

If the deficiency noted in a verbal warning is not corrected by the next inspection, or if the severity of the violation is such that a verbal warning is not considered sufficient, a written notice will be issued that describes the infraction that is to be corrected, the time frame for correction, and the date for a follow-up inspection. A copy of the notice should be given to the responsible party and facility/operation supervisor and placed in the inspection file. If the violation has been corrected to the satisfaction of the inspector, the inspector will document compliance in the inspection file.

2.3.3 DISCIPLINARY ACTIONS

If an Authority employee is responsible for the noncompliant activities, the Authority may choose to take disciplinary actions against the employee in accordance with established procedures.

2.3.4 ENFORCEMENT OF CONTRACTS, LEASES, OR USE PERMITS

If a contractor or developer is performing contract work for the Authority, the Authority may use the provisions within the contract to correct noncompliant activities or conditions. The Authority generally adds language into all contracts that gives the right to refuse payment, stop work (without time penalties), or revoke the contract if the contractors' performance does not comply with appropriate permits, laws, regulations, and ordinances. Similarly, for tenant projects, the Authority may use provisions within the lease or use permit to correct noncompliant activities or conditions. This mechanism is typically preferred to other legal actions.

2.3.5 CEASE AND DESIST ORDER

If the deficiency noted in an initial warning is not corrected by the follow-up inspection, or if the severity of the violation is such that a warning is not considered sufficient, a Cease and Desist Order (CDO) may be issued. A warning may be insufficient if, for example, there is a significant and/or immediate TTWQ. CDOs are administrative orders issued to cease and desist all activities that may cause or contribute to a violation and to stop illegal discharges and/or illicit connections. CDOs typically require compliance within a designated time frame and remedial or preventive actions to prevent the violation from recurring. Conditions that might warrant such action include observation of runoff from an industrial or commercial area or activity that is not reasonably controlled by protective measures or observation of a failure in BMPs that results in or potentially results in a release of pollutants to a degree that may substantially degrade water quality.

2.3.6 NOTICE AND ORDER TO CLEAN, TEST, OR ABATE

These are written and/or verbal orders to perform activities listed in the Authority's Storm Water Code. Activities may include development of a SWPPP, BMP implementation, testing, monitoring, and/or mitigation.

2.3.7 FINES

Costs or fines associated with pollution detection and abatement, in addition to other penalties, are the responsibility of the property owner or tenant.

2.3.8 CIVIL AND CRIMINAL COURT ACTIONS

Civil and criminal court actions may be taken under Section 8.76 of the Storm Water Code, the State Porter Cologne Water Quality Act, or the Federal Clean Water Act.

Section 8.76(d) of the Storm Water Code makes a violation either a misdemeanor offense or an infraction, at the discretion of the Executive Director. Infractions are punishable by a fine not to exceed \$100 for the first violation and \$250 for the second violation of the same provision within a year of the first violation. Third violations are misdemeanor offenses subject to a fine and/or imprisonment.

The Authority may use civil and/or criminal court action under the Porter-Cologne Water Quality Act, the Federal Clean Water Act, or other applicable statute as an enforcement mechanism. Civil and criminal court actions under the State Porter-Cologne Water Quality Act may result in fines ranging from \$100 to \$15,000 per day per violation and \$10 to \$20 per gallon of polluted discharge. Penalties under the Federal Clean Water Act may result in fines ranging from \$2,500 to \$50,000 per day per violation and/or one to three years of imprisonment for first offenders. Repeat offenders face double the penalties.

2.3.9 BONDING REQUIREMENTS AND LIENS

An authorized enforcement official may use any means allowed by law to establish a lien against the owners' or tenants' property or establish bonding requirements to ensure that a violation is corrected and penalties and /or abatement, pollution detection, or administrative costs are recovered.