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Section 3 Contaminant Discovery and Release Reporting

I. CONTAMINANT DISCOVERY

Numerous contaminated sites exist in San Diego County. Regulations requiring the upgrade and replacement of underground storage tank (UST) systems and regulatory inspections of businesses and industrial facilities that use hazardous materials and generate hazardous wastes continue to be strengthened. Lenders and potential buyers, prior to a real estate transfer, now commonly require environmental property assessments.

The most common ways that DEH learns about sites contaminated by hazardous substances are as follows:

- Test results of soil or groundwater samples collected during UST removal operations
- During subsurface investigations and through test results of soil and groundwater samples from soil borings and monitoring wells installed during such investigations
- During business or industry compliance inspections and emergency response operations
- Through site inspections or surficial sampling conducted as part of environmental assessments
- Through referrals and complaints from other government agencies, industry, and the public
- Through failed UST integrity tests
- Through releases from exempted USTs

Note: If a release is identified at any point in time during the operation or closure of an exempt UST, the UST owner or UST operator must follow the reporting requirements outlined in [Section 3.II.A.](#)

A. Contamination Sources

The following are brief descriptions of the contamination sources.

1. Industrial Process

Assessment and remediation of industrial process releases require a thorough understanding of the process line and the chemistry of the materials used and wastes produced. This information should be discussed in the site assessment report submitted to DEH. The site assessment report needs to be completed in accordance with **Section 4 and Section 5** of this Manual.

Layouts of plumbing/sewer lines (past and present), associated plant process lines, chemical inventory used, wastes produced, waste storage areas, methods of waste disposal, and permitted sewer discharge limitations should all be discussed, if applicable. The site assessment report should discuss thoroughly the past site usage and any impacts suspected to have been caused by them. Discussion should distinguish between impacts caused by past and present site activities.

In addition to investigation of soil and groundwater, it may be necessary to determine if building materials, containers, sumps, and/or basins are contaminated. An evaluation of the integrity of any concrete flooring should be made to determine if any visible deterioration exists. Cracks, joints, exposed aggregate, and holes, for example, may suggest that chemicals have contaminated the soil beneath the flooring. A determination must be made as to whether solutions have leached or leaked through the concrete slab.

Contaminants may be present that are characteristic of the unique chemicals and processes used at a site. Depending on the type of business (e.g., plating shop, dry cleaner), metals contamination or dense non-aqueous phase liquids (DNAPL) beneath the water table may be present and should be investigated.

The following is a list of common issues that pertain to hazardous substances at industrial releases.

- a. Hazardous waste determinations for unknown wastes
- b. Disposition of chemicals (e.g., permitted sewer discharge, copies of hazardous waste manifests or shipping documents)
- c. USTs and piping decontamination
- d. Sump clean-out and decontamination
- e. Condition of concrete flooring (deterioration/leaching)
- f. Wall and berm decontamination
- g. Complete inventory of chemicals and wastes used and/or produced on-site
- h. Waste-water treatment system leakage and/or decontamination
- i. Rinsate disposal from shop cleanup
- j. On-site waste storage and management areas

2. Agricultural Practices

Agricultural activities include the application of fertilizers, herbicides, and pesticides. Soils contaminated by past agricultural activities have been of growing concern, generally because of land use changes involving proposed housing developments on former agricultural lands. *In situ* residues in soil, resulting from legally applied fertilizers, herbicides, and pesticides are not regulated as hazardous waste. However, it is necessary to conduct both a site assessment

and a risk assessment to adequately evaluate the risk to human health and the environment posed by the presence of these residual materials.

3. Above Ground Storage Tanks

Contact the County of San Diego Hazardous Materials Division (HMD) regarding the requirements for reporting, investigation, cleanup, and closure of operating or closed above ground storage tank (AST) systems.

4. Burn Ash

Burn ash refers to the debris, refuse, ash, and ash-contaminated soil that is produced from the open burning of municipal solid waste. In San Diego County, numerous burn ash sites exist from the time when open burning was the primary method used to dispose of solid waste. This was common from 1940 to the late 1960s.

Ash from the open burning of municipal solid waste is the most common, but not the only, source of burn ash. Historically, some open burning and low temperature incineration did occur with specific commercial wastes streams, often disposed of on-site. Ash from these sites could have very different characteristics from those of municipal solid waste. Burn ash is often commingled with other solid wastes, including incompletely burned refuse. These sites can have complicated mixtures of contaminants.

There are many environmental issues and concerns regarding the management of burn ash sites. Contact DEH's Local Enforcement Agency (LEA) regarding the requirements for investigation, cleanup and closure of these types of sites.

5. Illegal or Abandoned Landfill Sites

Contact DEH's LEA regarding the requirements for reporting, investigation, cleanup, and closure of illegal or abandoned landfill sites.

6. Closed Sites or Operating Landfill Sites

Contact DEH's LEA regarding the requirements for reporting, investigation, cleanup, and closure of closed or operating landfill sites.

B. Investigations to Determine if Contamination Is Present

Environmental assessments are now commonly performed on many sites where there is no obvious contamination, or where contamination is suspected but has not yet been discovered, in order to address various legal, technical, or real estate appraisal issues. For example, they may be performed as part of due diligence surrounding a property transfer, to determine the technical feasibility of a proposed site use, or to estimate the market value of a real estate parcel. Environmental assessments are also commonly called Phase I site assessments, preliminary site assessments (PSAs), and real estate assessments.

An environmental assessment is basically an investigation of current and past site uses to determine if contamination is present, likely, or suspected. It typically involves a thorough review of public records, a site visit, and possibly minor soil or groundwater sampling and analyses. In

general, the information from the environmental assessment is evaluated to assess the current status of a property, and to determine if additional soil and groundwater investigations and testing are warranted. These investigations do not constitute a complete site assessment as defined in this Manual, since their purpose is only to establish the presence or absence of contamination. If contamination is known, discovered, or suspected, a complete site assessment should be performed in accordance with requirements in this Manual to determine the nature and extent of contamination. **Section 4 and Section 5** of this Manual provide further information concerning site assessments and soil and water investigations.

If an environmental assessment is to be used as a decision-making tool in a property transaction, DEH strongly suggests that the environmental assessment be conducted in the early planning phases. An environmental assessment begins with a good request for proposal (RFP). Buyers, sellers, and lenders sometimes want to have a regulatory agency review and comment on reports that have been prepared following an environmental assessment of a property. This work is typically done prior to the sale of real estate. Many of these reports are submitted to DEH for review, although there is no legal requirement to do so. As part of the Voluntary Assistance Program (VAP), DEH may elect to review these documents for full cost recovery of the staff time expended. If contamination is known or discovered, it should be reported to DEH and/or the RWQCB, Department of Toxic Substances Control (DTSC), or other regulatory agencies with oversight authority.

The sections below, titled "An Environmental Assessment Task List" and "Environmental Assessment (Phase I) Report Checklist", present DEH's opinion on completing an environmental assessment. DEH is aware that there are several other published documents available that provide guidance for conducting an environmental assessment. DEH will continue to present guidance on conducting such assessments. In addition to the information below, DEH recommends that you consider the guidance presented by the American Society for Testing and Materials (ASTM) in their Standard Practices for Environmental Site Assessments. The ASTM Standards are more specifically referred to as *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, designation E 1527-05*, and *Standard Practice for Environmental Site Assessments: Transaction Screen Process, designation E 1528-06*.

Environmental Assessment Task List

Environmental assessments should make use of existing documentation and historical information regarding site uses that may have created conditions leading to contamination of soil/groundwater. Environmental assessments may be conveniently divided into tasks as follows.

1. Historical Review

Review existing documents, including agency files, geotechnical reports, aerial photos, title documents, insurance documents, etc.

2. Site Reconnaissance

Conduct a site visit and look for existing evidence of surficial contamination. Document current storage, management, and disposal practices concerning hazardous substances.

3. Identification of Suspect Areas of Contamination

Identify and discuss potential areas of on-site contamination based upon the results of the historical review and site reconnaissance tasks from above. Evaluate the potential of contamination from "documented" nearby sites.

4. Report Preparation

Prepare a report that contains an analysis of all the pertinent data collected during the historical review and the site reconnaissance. The report shall include appropriate plot plans, tables, and potential areas of the site to be targeted for further studies (Phase II Investigation). Include conclusions and recommendations concerning the current site status and the need for further work at the site.

C. Environmental Assessment (Phase I) Report Checklist

DEH has prepared the following Environmental Assessment Report Checklist to ensure that reports submitted to DEH for review and comment are complete. The level of scrutiny warranted for an environmental investigation at any particular site may vary considerably, depending on the goals of the investigation and the potential for existing contamination.

1. Site Identification

- a. Site address
- b. County tax assessor's parcel number (APN)
- c. Name and address of property owner
- d. Contact name and phone number for property owner
- e. Name of any business(es) on-site
- f. Contact name and phone number for business(es) on-site
- g. Location map (e.g., Thomas Brothers page indicating site vicinity)

2. Site Plot Plan(s) (maps)

- a. Drawn to scale with key to map features and north arrow (or other directional indicators)
- b. Roads, structures, pertinent utilities, and features shown
- c. Storage areas and facilities/improvements of any type (e.g., sheds, concrete pads, fenced enclosures, ASTs, USTs, etc.) shown
- d. Wells (drinking water supply or groundwater monitoring wells) shown
- e. Location(s) of known or suspected contamination on the subject and adjacent sites (based on current and previous investigations)
- f. Locations of any samples collected during current and previous investigations
- g. Geotechnical modification location(s) of any geotechnical modifications made to the site, such as major areas of cut and fill, installed subsurface drainage structures, borings, and trenches. Reference the geotechnical reports from which such information is compiled.

3. Geology/Hydrology

Include any known geological information (list sources for all information).

- a. Local (regional) geology
 - b. Site-specific geology
 - c. Topography and surface drainage
 - d. Surface water bodies in the vicinity
 - e. Groundwater occurrence (if known)
 - (1) Depth to groundwater
 - (2) Groundwater flow direction (gradient)
 - (3) Groundwater quality
 - (a) Local (designated by the state as beneficial or non-beneficial)
 - (b) Site-specific (clean or contaminated)
- 4. Site Use**
- a. Current site use
 - b. Whether the site itself appears on a government environmental records list
 - c. Which list(s) and reason(s) for listing
 - d. Case "open" or "closed"
 - e. Chemical(s) of concern
 - f. Contamination of concern (soil/groundwater/both), if any
 - g. The extent of contamination (if known)
 - h. Dates of listing, of contamination, of discovery, if any
- 5. Activities involving hazardous materials occurring on site (use, storage, treatment, and/or disposal, whether proper or improper)**
- a. Specific activities, chemicals involved, potential for site contamination resulting from activities
 - b. The types of contaminants generally associated with a particular site use
 - c. Length of time these activities were performed
- 6. Activity requiring an EPA identification number or permit(s) from regulatory agencies for discharges to air, water, or sewer**
- 7. Violations of permits or other environmental regulations and the nature and outcome of the violation**
- 8. Environmental contamination observed or suspected in aerial photographs or during site reconnaissance**
- 9. Structures or features on-site suggesting chemical use, storage, treatment, or disposal (tanks, sumps, clarifiers, ponds, etc.), including the materials stored/handled and a review of monitoring records**
- 10. Equipment for monitoring or controlling the release or migration of waste or contamination (such as monitoring wells)**

11. Activity involving non-hazardous materials occurring on-site that may impact proposed site use or increase liability (e.g., solid waste such as refuse, tires, automobiles, construction debris)

12. Pesticide application

- d. Specific chemicals used
- e. Method, rate, and frequency of application
- f. Carrier agents (solvents), if any
- g. Identify storage and mixing areas

13. Document known environmental contamination

14. Type of land use in the vicinity of site (industrial, commercial, residential, rural, etc.)

- a. Previous site uses
 - (1) As with current site use above, review title documents, fire insurance records, lease or rental agreements, permits, geotechnical reports, land use maps, outdated phone books, etc., for information on sources or potential sources of environmental contamination.
 - (2) Tabulate a chronology of ownership and significant site use changes. Reference the source(s) of the information.
- b. Adjacent site use
 - (1) Both current and past adjacent site use(s)
 - (2) As with current site use, but with added emphasis on distance to subject property, and on extent of or potential for off-site migration onto or towards subject property
 - (3) Impact(s) on site usability of any known off-site contamination or chemical emission

15. Sampling Data and Evaluation

- a. Rationale for sampling (suspected sources of contamination)
- b. Specific contaminants analyzed for (e.g., gasoline, waste oil, asbestos)
- c. Sample collection procedures, equipment used, and chain-of-custody forms
- d. Tabulation of results from laboratory analyses (data) for current and previous investigations. For the current investigation, provide a copy of the laboratory report in the assessment report. Data presented from past reports must be appropriately referenced.
- e. Evaluation of sample data
 - (1) From the current and previous investigation
 - (2) In light of laws, regulations, or other regulatory guidance
 - (3) In light of proposed site use
 - (4) Recommendations for additional samples or analyses

16. Summary/Conclusions/Recommendations

- a. Findings
 - (1) From the current investigation

- (2) From previous investigations
- b. Impacts (if contamination or potential sources are identified)
 - (1) Possible exposure concerns
 - (2) Potential for on-site or off-site contaminant migration
- c. Recommendations
 - (1) Need for further assessment
 - (2) Possible restrictions for the proposed site use
 - (3) Possible restrictions for other site uses

17. Signatures

- a. Signature(s) of the authors and reviewer(s)
- b. Authorized signature for the company preparing the report (DEH does not accept "Draft" or unsigned reports.)

Request the signature of an appropriately registered or certified professional (the reports including geologic or engineering evaluations, interpretations, or judgments on crucial elements, especially those elements which affect ownership liability, cleanup feasibility and costs, property usability, or the appraisal value).

18. Attachments/Enclosures

Copies of pertinent records, historic and current aerial photographs, and photographs from the site reconnaissance should be included in the report.

II. RELEASE REPORTING AND AGENCY OVERSIGHT

Once contamination has been discovered, specific laws and regulations require reporting and corrective action depending on the constituents of the substance released and the source of the release. A release for the purposes of this Manual is defined as any spill, leak, discharge, or disposal of a hazardous substance into the waters of the state, the land, and surface or subsurface soils.

DEH provides regulatory oversight for corrective action at sites contaminated with petroleum products or hazardous substances from USTs. DEH is authorized to provide this oversight as a participant in the State Water Resources Control Board's Local Oversight Program (LOP) and by the County Board of Supervisors. For most other contaminated sites (other than with petroleum impacts from USTs) where contamination may threaten the waters of the County, the RWQCB has regulatory authority. The DTSC may have regulatory authority over a smaller number of contaminated sites, including Resource Conservation and Recovery Act (RCRA) treatment, storage, and disposal (TSD) facilities.

In many cases, the source, rather than the contaminant substance, determines which agency has regulatory oversight. An example is petroleum. When petroleum is stored in an AST, the County of San Diego Hazardous Materials Division has jurisdiction; however, when petroleum is stored in a UST, SAM has jurisdiction. Because of limited staff at the RWQCB and DTSC, DEH frequently provides oversight on many contaminated sites at the request of the Responsible Party (RP), and with

the concurrence of the RWQCB and/or the DTSC as part of the Voluntary Assistance Program (VAP).

A. UST Sites

California law divides USTs into two groups. (1) USTs that are regulated by the UST regulations in the California Health and Safety Code (HSC) Chapter 6.7 for the monitoring and closure of USTs, and (2) USTs that are exempt from the monitoring and closure requirements. When a release is identified from an exempt UST, HSC Chapter 6.75 requires an investigation and cleanup.

For sites where soil and groundwater have been contaminated by a release of petroleum product from a UST, the corrective action process and the reporting requirements are specifically defined in the California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 11. According to Chapter 6.7 of the HSC, a UST is defined as a tank or a combination of tanks, including dispensers and connecting piping, which is used to contain regulated hazardous substances, with 10% or more of its capacity beneath the surface of the ground. Chapter 6.7 defines a release as any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a UST into or on the waters of the state, the land, or the subsurface soils.

A release from a UST is called an unauthorized release. Once contamination has been discovered at a petroleum UST site, the unauthorized release must be reported in accordance with CCR, Title 23, Division 3, Chapter 16, Article 5, and the corrective action process defined under Article 11 must be followed. California law requires the UST owner or operator to report an unauthorized release, spill, or overfill condition to DEH within 24 hours of discovery. The following section outlines the reporting requirements.

1. 24-Hour Notification

An unauthorized release may occur while a UST is in operation. In these instances, DEH requires notification within 24 hours. The five conditions that trigger the 24-hour reporting requirements are the following:

- a. The UST owner or operator must report an unauthorized release that escapes from the secondary containment of the UST system, or from the primary containment if no secondary containment exists, to DEH within 24 hours of the discovery or detection of the release. Releases that do not escape the UST secondary containment and are cleaned up within 8 hours of release detection do not require 24-hour notification, but must be described in the UST operator's monitoring record.
- b. Any unauthorized release that increases the hazard of fire or explosion must be reported within 24 hours.
- c. Failed integrity tests are considered potential unauthorized releases and must be reported to DEH within 24 hours.
- d. Unusual UST operation conditions or the sudden loss of product are considered suspected unauthorized releases and must be reported to DEH within 24 hours.
- e. An unauthorized release that causes any deterioration to the secondary containment of the UST must be reported to DEH within 24 hours.

2. Integrity (Precision) Test Reporting

A tank integrity test determines the physical integrity of a UST. It is one of the monitoring alternatives available for detecting leakage from an UST. A tank tester who is licensed by the State of California must conduct all tank integrity tests. Integrity test methods must have third-party verification, and must be among those approved by the State Water Resources Control Board. The test method can be either volumetric or non-volumetric, and must be able to detect a leak rate of 0.10 gallon per hour (gph), with a probability of detection of at least 95%, and a probability of false reading of 5% or less. The leak rate can be no greater than 0.10 gallon per hour; however, it is also dependent upon the threshold limit value established for each particular test method. For example, if a threshold limit for a particular test is 0.05 gallon per hour, then any test result equal to or greater than 0.05 gallon per hour indicates a failed integrity test.

A failed integrity test is one in which the leak rate equals or exceeds the leak threshold limit established for that particular test method. Currently, in San Diego County, the threshold limit for all state-approved volumetric integrity test methods is 0.05 gph. A failed integrity test is considered a suspected unauthorized release.

a. Release Report

An integrity test with a leak rate greater than or equal to the leak threshold limit for that particular method is evidence of an unauthorized release. The UST owner/operator, or his agent, must notify DEH within 24 hours or on the next working day (CCR, Title 23, Section 2652). The UST owner/operator, or his agent can call DEH at (619) 338-2207 between 8:00 a.m. and 5:00 p.m., Monday through Friday. DEH encourages consultants to advise their clients of this requirement in advance of performing an integrity test. To protect their clients from possible enforcement action for neglecting to make the proper notifications as required by law, consultants can, on behalf of their clients, make the initial notification to DEH.

b. Five-Day Report

Upon receipt of the 24-hour notification of the unauthorized release, DEH will send an Official Notice to the UST owner/operator requiring submittal of a written report to DEH within five (5) working days (Form HSC-05). The five-day report must address the points specified in CCR, Title 23, Section 2652. Additionally, the owner/operator must provide a copy of all UST test results, the cause of the test failure, a time line for identifying the location of the suspected leak, and the measures for preventing further loss of hazardous substance from the UST system. The report should indicate any necessary repairs (a repair permit may be required) and the reschedule date for the integrity test, if applicable.

c. Loss Prevention

It is very important to identify the cause of the integrity test failure as soon as possible to minimize the cost and extent of any necessary cleanup. Any component of the tank system which is identified as having a leak, or is a source of product loss to the environment, shall have all product removed from that component and/or be maintained

in such a state so as to preclude further product loss. Consideration must be given to the proper tank ballast in areas of high groundwater.

d. Additional Requirements

If it can be clearly demonstrated to DEH in the five-day report, or at a later date, that an unauthorized release did not occur, no further investigation or cleanup will be required. Such a case may exist when, for example, the integrity test failure is shown to be due to a loose fitting on a vent line. All other failed integrity tests will be handled as unauthorized releases.

5. Preliminary Site Assessment Phase

The first phase of corrective action as defined under CCR Title 23, Article 11, is the Preliminary Site Assessment Phase. The requirements of this phase include, at a minimum, initial site investigation, initial abatement actions, and initial site characterization in accordance with Sections 2652, 2653, and 2654 of Article 5 (Release Reporting and Initial Abatement Requirements), and any interim remedial actions taken in accordance with Section 2722(b) of Article 11.

The UST owner or operator should implement the following initial abatement actions, as applicable, in response to an unauthorized release.

a. Initial Site Characterization

- (1) Visually inspect the site for impacts of the release.
- (2) Investigate to determine if non-aqueous phase liquid (NAPL) is present.
- (3) Evaluate the fire or safety hazards posed by vapors or NAPL.
- (4) Assemble information on the nature and estimated quantity of the unauthorized release and information from available sources concerning applicable environmental and land use conditions.

b. Initial Abatement Actions

- (1) Take all necessary and appropriate measures to stop the release.
- (2) Remove any remaining stored substance from the UST.
- (3) Remove NAPL from wells and/or the UST excavation to the maximum extent practical.
- (4) Prevent further migration of the released substance into surrounding soil and groundwater.
- (5) Mitigate any fire or safety hazards posed by vapors or NAPL that has migrated from the release area to subsurface structures, such as sewers, utilities, or basements.
- (6) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, investigation, or abatement.

6. Written Reporting Requirements

Within five working days of detecting an unauthorized release, the UST owner or operator must submit a written report to DEH that describes the nature and volume of the release and any corrective measures taken to control the release. At unauthorized release sites where

NAPL is removed from the subsurface soil or groundwater, a NAPL removal report should be prepared in accordance with CCR, Title 23, Article 5, Section 2655, and submitted to DEH.

DEH evaluates all available reports and information concerning a reported unauthorized release and determines the need for further corrective action. If DEH finds that further corrective action is necessary, the UST owner and/or operator, as well as other identified RPs, is issued a Notice of Responsibility letter. This letter specifies the financial and corrective action responsibilities of each RP. Along with the Notice of Responsibility, the "UST Unauthorized Release Report/Contamination Site Report" (State of California Form HSC 05) (see [Appendix D.I](#)) is sent with a request that this report be completed and submitted to DEH within five working days of receipt. Additional reports will be required at intervals specified by DEH.

7. Responsible Party

Title 23, Article 11, Section 2720 of the CCR defines responsible party (RP) to mean one or more of the following:

- a. Any person who owns or operates a UST used for the storage of any hazardous substance
- b. In the case of a UST no longer in use, any person who owned or operated the UST immediately before the discontinuation of its use
- c. Any owner of property where an unauthorized release of a hazardous substance from a UST has occurred
- d. Any person who had or has control over a UST at the time of or following an unauthorized release of a hazardous substance

8. Soil and Water Investigation

A soil and water investigation is required where there is evidence that surface water or groundwater resources have been or may be affected, where NAPL has been found, where there is an increased risk of fire or explosion, or when the regulatory agency requests an investigation based on these factors. This investigation begins the second phase of the corrective process defined in Article 11 as the Soil and Water Investigation Phase. For further information concerning the requirements for site assessments and soil and water investigations, see [Section 4](#) and [Section 5](#) of this Manual.

B. Non-UST Sites

Contamination of soil and groundwater resulting from sources other than a UST must be reported to the San Diego RWQCB. The RWQCB will provide regulatory oversight and direct corrective action at these sites, unless the RP requests assistance from DEH, and the RWQCB agrees to transfer oversight responsibility to DEH. Because of staff limitations, the RWQCB commonly authorizes DEH to oversee corrective action at certain sites on their behalf. To request DEH oversight assistance, including review of workplans and reports, the RP must complete a Voluntary Assistance Program application and agree to reimburse DEH for staff time expended. The "Voluntary Assistance Program Application for Assistance" must be approved by the

RWQCB. This application can be found at DEH's website at http://www.sdcountry.ca.gov/deh/water/sam_voluntary_assistance_program.html.

Knowing and complying with all reporting and disclosure requirements can be a challenge for those involved. Some reporting and disclosure requirements are summarized below. These requirements are not intended to be a substitute for applicable laws and regulations, and may not be complete.

The following agencies should be contacted immediately whenever a spill or release of a hazardous substance has occurred that has the potential for off-site public health and safety and/or environmental consequences:

- State Office of Emergency Services (OES)
- Local Fire Department (Ask for Fire Marshall)
- Department of Environmental Health (DEH)
- Regional Water Quality Control Board (RWQCB)

The following reporting requirements should be considered by RPs, property owners, business owners, and anyone who causes or threatens to cause a release or discharge of a hazardous substance, as well as those who discover contamination on property they control.

1. Federal Reporting Requirements

Contact Federal EPA for current reporting requirements.

2. State Reporting Requirements

Contact CAL EPA for current reporting requirements.

3. Local Reporting Requirements

- a. Regional Water Quality Control Board (RWQCB)

The California Water Quality Control Act (California Water Code), Division 7, Chapter 4, Article 5, Section 13304(a) requires anyone who causes or threatens to cause a waste to be discharged into the waters of the state to take all necessary remedial action to clean up that waste. Additionally, Section 13305(f) of the California Water Code makes the owner of the property on which the condition exists responsible for all reasonable costs incurred by the RWQCB or any city, county, or public agency in abating that discharge.

Additionally, Section 13271(b) of the Water Quality Control Act states that:

"Any person who, without regard to intent or negligence, causes or permits a hazardous substance or sewage to be discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures,

immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.7) of Chapter 7 of Division 1 of Title 2 of the Government Code and immediately notify the state board or the appropriate regional board of the discharge. The state board or the regional board shall list all notifications received by them pursuant to this section in the minutes of the next business meeting and shall provide a copy of the minutes to the appropriate local health officials."

DEH and the San Diego RWQCB work closely on most contamination cases in San Diego County. The discovery of any discharge of a hazardous substance to surface water and/or groundwater must be reported to the RWQCB.

b. Local Building/Planning Department Requirements

In many cases construction activity and building occupancy can proceed concurrently with corrective action and cleanup verification. However, appropriate concern for public health and safety needs to be evaluated. Experience has shown that construction activities often interfere with adequate site investigation, corrective actions, and cleanup verification. Consequently, DEH will recommend disapproval of present or future site usage involving building/construction, and will recommend disapproval of any City building/planning permits, until the following items have been addressed:

- The proposed construction activity and structures must not interfere with the necessary site investigation, corrective action, and cleanup verification;
- Existing or residual contaminated soil and/or groundwater must not pose a threat to public health during construction activities, nor to occupants of proposed structures once complete.

c. Real Estate Transfer

Various laws and regulations require the disclosure of known contamination and/or hazardous conditions that are known to exist prior to any transfer of property. Section 25359.7(a) of the California Health and Safety Code states in part that:

"Any owner of a non residential real property who knows or has reasonable cause to believe, that any release of a hazardous substance has come to be located on or beneath that real property shall prior to sale, lease, or rental of the real property by that owner, give written notice of that condition to each buyer, lessee, or renter of the real property."