



- Board of Directors  
*Engineering and Operations Committee*

7/9/2019 Board Meeting

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**8-4**

## **Subject**

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Authorize amendments to the Administrative Code regarding deliveries of member agency water supplies in Metropolitan's system in an emergency; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

## **Executive Summary**

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Administrative Code amendments are being proposed to enable deliveries of member agency water supplies in Metropolitan's system in an emergency. These deliveries are intended to provide Metropolitan's member agencies the ability to deliver member agency water through Metropolitan's system under specific emergency conditions, subject to the General Manager's approval. Emergency deliveries can only be made if Metropolitan is unable to make deliveries to a member agency due to physical damage to Metropolitan's system resulting from a natural disaster or other emergency, and there are no alternate means for Metropolitan or the member agency to provide service to an area without the use of a portion of Metropolitan's system.

## **Timing and Urgency**

The proposed amendments to the Administrative Code will provide the member agencies with an additional option for making deliveries to areas of their system that are impacted by an emergency and have no feasible delivery options, subject to the General Manager's approval. These amendments will also enable member agencies to effectively plan for emergencies by proactively developing emergency delivery proposals for Metropolitan to evaluate in advance of an actual emergency.

## **Details**

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### **Background**

Metropolitan has a robust water system reliability program that enhances infrastructure reliability through a variety of initiatives to address seismic vulnerabilities and augment the resiliency of the system. Examples include the Prestressed Concrete Cylinder Pipe Rehabilitation and Replacement Program, and the Water Treatment Plant Seismic Upgrade Program. Another key component supporting system reliability is the Emergency Response Program that ensures Metropolitan is prepared to respond and recover from an earthquake or other emergency. The Emergency Response Program involves many critical efforts, including maintaining in-house manufacturing and construction capability, emergency communications capability through a two-way radio network, and partnerships and mutual assistance capability with the member agencies and other agencies throughout the State.

In an effort to enhance water delivery reliability after a serious emergency that renders Metropolitan unable to make deliveries to a specific area of the system, staff is proposing to allow the member agencies to utilize undamaged portions of Metropolitan's system to make deliveries of member agency water supplies under certain emergency conditions. This capability would provide another option to maintain deliveries to retail water users in the service area after an emergency interruption. Although Metropolitan currently has plans and agreements with the member agencies for responding to an emergency, there is a lack of clarity regarding the use of Metropolitan's system under emergency conditions in which Metropolitan cannot meet member agency delivery requests. Staff proposes changes to the Administrative Code to clarify the conditions of these emergency deliveries in a proactive way, instead of a reactive way in response to damaged infrastructure following a serious emergency.

Should these Administrative Code changes be implemented, a clearer path would be available for member agencies to prepare proposals for review by Metropolitan for potential emergency deliveries, in advance of a serious emergency. Authorization to utilize Metropolitan's system under specific emergency conditions requires amendments to add a new section to Division IV, Chapter 5 of the Administrative Code. The proposed new section is set forth in Attachment 1. The section below summarizes the proposed changes.

### **Summary and Explanation of Proposed Additions to Administrative Code, Division IV, Water Service Policies**

#### Changes to Chapter 5: Water Service Regulations – General

Add Section 4519 (Emergency Deliveries of Member Agency Water Supplies in Metropolitan's System) to provide Metropolitan's member agencies the ability to deliver member agency water supplies through Metropolitan's system under specific emergency conditions, subject to the General Manager's approval and the following conditions:

#### **a) Emergency**

For the purposes of this proposed Administrative Code change, an emergency is defined as a condition where Metropolitan is physically unable to make deliveries for greater than seven days to a member agency service connection due to damage associated with a natural disaster or other emergency, as determined solely by Metropolitan's General Manager. For purposes of an emergency under this proposed change, any water supplied by a member agency into Metropolitan's system is considered member agency water, even if all or part of that supply was originally a Metropolitan water delivery. The determination of an emergency shall be made solely by Metropolitan's General Manager.

#### **b) Emergency Deliveries**

Use of Metropolitan's system for emergency delivery of member agency water supplies will only be considered if there are no alternate means for Metropolitan to make deliveries to the member agency's system through another service connection on Metropolitan's system, and the member agency has no feasible alternate method(s) to provide extended service to an area without the use of Metropolitan's system. Feasible alternate methods include, but are not limited to, use of interconnections with neighboring agencies, delivery of other local supplies, and use of local emergency storage reserves. The determination of feasible alternate methods shall be made solely by Metropolitan's General Manager. The goal of these Administrative Code changes is to help ensure water can be supplied to a geographic area in an emergency. It is not for use as a means to increase reliance on Metropolitan's system by offsetting other member agency funded emergency reliability or resiliency projects. It is also not intended for use to offset mandatory conservation measures or a Water Supply Allocation.

#### **c) Multiple Agencies**

A member agency may move its supplies through Metropolitan's system due to an emergency: (1) to make emergency deliveries to itself, and/or (2) to make emergency deliveries to one or more other member agencies that request this because the agency or agencies have no feasible alternate methods of delivery. In the latter situation, all of the requirements, liabilities, and indemnifications of a member agency in this section shall be divided or shared between the participating member agencies, and Metropolitan shall have no such responsibilities. The participating member agencies shall agree to the division or sharing of requirements, liabilities, and indemnifications in writing in advance of the emergency deliveries, subject to Metropolitan's review and approval. The term "member agency" is referred to in singular form throughout this section, but can apply to multiple participating agencies, where applicable.

#### **d) Ability to Serve**

Metropolitan's General Manager reserves the right to determine if Metropolitan's system will be used for emergency deliveries subject to available system capacity and facility impacts. Emergency deliveries of member agency water supplies may not occur if doing so impairs or impedes Metropolitan's emergency recovery efforts.

**e) Water Quality Standards and Liability**

The member agency will be responsible for meeting all water quality standards and requirements for member agency water introduced into Metropolitan's system during the emergency deliveries. The member agency assumes all risk of any adverse impacts to downstream water quality in Metropolitan's system and any other system that could be affected by the emergency deliveries. Prior to the initiation of emergency deliveries of member agency water supplies in Metropolitan's system, the member agency shall provide water quality data to confirm the compatibility of the member agency water supply (either treated or untreated) with Metropolitan's water and distribution system. The member agency is responsible for obtaining all required drinking water permits and/or approvals for the new water source(s) from the State Water Resources Control Board, Division of Drinking Water. If another member agency is not participating in emergency deliveries but is affected by a member agency's participation (e.g., the affected agency has an operational service connection receiving Metropolitan's water from the west, and this connection is also incidentally receiving emergency deliveries being made from the east, due to its location downstream of where the emergency deliveries are being made), the participating member agency will coordinate with the affected agency and ensure that all compliance and permitting requirements are met for the affected agency.

**f) Indemnification**

The member agency must indemnify Metropolitan for any claims arising from the emergency deliveries as set forth in Section 4502 of Metropolitan's Administrative Code, as may be amended over time, and from any costs or liability arising out of any violation by the member agency of any laws or regulations related to the emergency deliveries, including but not limited to CEQA and its implementing regulations. In addition to indemnity under Section 4502 of Metropolitan's Administrative Code, the member agency shall defend, indemnify, and hold harmless Metropolitan, its Board of Directors and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with any effects on the member agency's, its member subagencies', or any other affected parties' water quality and/or operations as a result of the emergency deliveries.

**g) System Integrity**

The member agency is responsible for the costs of repairing any damage that occurs in the portion of Metropolitan's system being used and affected by the member agency during the period of emergency deliveries. Metropolitan may elect to perform the repairs on a reimbursable basis, at the General Manager's sole discretion.

**h) Compensation**

The member agency will not be required to pay Metropolitan's rate for wheeling service for the emergency deliveries of member agency water. This is conditioned on the idea that Metropolitan and the member agency have no other options available to provide service to a specific area after an emergency until the damage to Metropolitan's system is repaired. However, the member agency is required to reimburse Metropolitan for its direct costs and administration fees, as determined by the General Manager, during the emergency delivery (e.g., use of a Metropolitan pump station to make emergency deliveries of member agency water supply). In addition, the member agency will pay Metropolitan's full-service rate (all rates and charges that apply to full-service deliveries) for Metropolitan's water flushed through Metropolitan's system at the conclusion of the emergency deliveries.

**i) Operational Requirements**

The member agency is responsible for ensuring that emergency deliveries of member agency water comply with Administrative Code requirements including, but not limited to, Chapter 8: System Interconnections – Hydraulic Transients. The member agency shall request and obtain approval from Metropolitan for emergency deliveries in advance of initiating emergency deliveries, and Metropolitan shall determine whether to commence emergency deliveries at its sole discretion.

At the conclusion of the emergency deliveries, a short shutdown will occur to flush the system with Metropolitan water and return the system to its normal operating configuration. The member agency agrees to cooperate with Metropolitan to return the system to its normal operating configuration as soon as possible

after the restoration of Metropolitan's system, as determined by Metropolitan's General Manager. Alternatively, the member agency can opt for Metropolitan to flush the system by pushing the member agency water supplies through the system and back to the member agency for its own use, if the member agency accepts responsibility for this process.

**j) Term for Emergency Deliveries**

In his sole discretion, Metropolitan's General Manager shall determine when the emergency begins and when the emergency ends because emergency deliveries are no longer necessary or need to be discontinued.

Emergency deliveries of member agency water supplies shall not exceed one year in length unless a longer term is approved by Metropolitan's board. Metropolitan will endeavor to provide the member agency with 72 hours advance notice of the conclusion of the emergency and the return of normal operations.

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**Policy**

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Metropolitan Water District Administrative Code Chapter 5 – Water Service Regulations – General

Metropolitan Water District Administrative Code Section 4119 (Wheeling Service)

Metropolitan Water District Administrative Code Section 4405 (Wheeling Service)

Metropolitan Water District Administrative Code Chapter 8 – System Interconnections – Hydraulic Transients

Metropolitan Water District Administrative Code Section 4502 (Liability and Indemnification)

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**California Environmental Quality Act (CEQA)**

**CEQA determination for Option #1:**

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

**CEQA determination for Option #2:**

None required.

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**Board Options**

**Option #1**

Authorize amendments to the Administrative Code regarding deliveries of member agency water supplies in Metropolitan's system in an emergency

**Fiscal Impact:** None

**Business Analysis:** These amendments provide an option for the member agencies to deliver member agency water supplies through Metropolitan's system to areas that cannot receive deliveries from Metropolitan due to damage following a natural disaster or other emergency. These amendments are intended for use only if there are no options available to make water deliveries to the affected area, subject to the General Manager's approval.

**Option #2**

Do not authorize amendments to the Administrative Code regarding deliveries of member agency water supplies in Metropolitan's system in an emergency.


**Fiscal Impact:** None

**Business Analysis:** This option could limit the ability to make water deliveries to portions of Metropolitan's service area that cannot receive these deliveries due to damage following a natural disaster or other emergency.

**Staff Recommendation**

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Option #1

  
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Brent M. Yamasaki  
Interim Manager, Water System Operations

6/26/2019  
Date

  
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Jeffrey Kightlinger  
General Manager

6/27/2019  
Date

**Attachment 1 – Proposed New Addition to the Administrative Code as Section 4519**

Ref# wso12666566

**§ 4519. Emergency Deliveries of Member Agency Water Supplies in Metropolitan's System**

Emergency deliveries of member agency water supplies in Metropolitan's system are intended to provide Metropolitan's member public agencies the ability to deliver member agency water supplies through Metropolitan's system under specific emergency conditions, subject to the General Manager's approval and the requirements listed herein.

(a) Emergency: For the purposes of this section, an emergency shall be defined as a condition in which Metropolitan is physically unable to make deliveries to an operable existing member agency service connection due to damage associated with a natural disaster or other catastrophic event, for a period expected to be greater than seven days. For purposes of an emergency under this section, member agency supplies include any water the member agency introduces into Metropolitan's system even if all or part of its supply was originally delivered to the member agency by Metropolitan. The determination of an emergency shall be made solely by Metropolitan's General Manager.

(b) Emergency Deliveries: Use of Metropolitan's system for emergency deliveries of member agency water supplies will only be considered if:

- i) There are no alternate means for Metropolitan to make deliveries to the member agency's system through another service connection on Metropolitan's system, and
- ii) The member agency has no feasible alternate method(s) to provide extended service to an area without the use of Metropolitan's system. Feasible alternate methods include, but are not limited to, use of interconnections with other neighboring agencies, delivery of other member agency water supplies, and use of local emergency storage reserves. The determination of feasible alternate methods shall be made solely by Metropolitan's General Manager.

(c) Multiple Agencies: A member agency may move its supplies through Metropolitan's system due to an emergency: (i) to make emergency deliveries to itself, and/or (ii) to make emergency deliveries to one or more other member agencies that request this because the agency or agencies have no feasible alternate methods of delivery. In the latter situation, all of the requirements, liabilities, and indemnifications of a member agency in this section shall be divided or shared between the participating member agencies, and Metropolitan shall have no such responsibilities. The participating member agencies shall agree to the division or sharing of requirements, liabilities, and indemnifications in writing in advance of the emergency deliveries, subject to Metropolitan's review and approval. The term "member agency" is referred to in singular form throughout this section, but can apply to multiple participating agencies, where applicable.

(d) Ability to Serve: Metropolitan's General Manager reserves the right to determine if Metropolitan's system will be used for emergency deliveries subject to available system capacity and facility impacts. Emergency deliveries of member agency water supplies may not occur if doing so impairs or impedes Metropolitan's emergency recovery efforts.

(e) Water Quality Standards and Liability: The member agency will be responsible for meeting all water quality standards and requirements for its member agency water supplies introduced into Metropolitan's system during the emergency and until Metropolitan's system is completely flushed with Metropolitan's water at the conclusion of the emergency operation. In addition:

- i) The member agency shall assume all risk of any adverse impacts to water quality and system conditions attributable to its emergency deliveries of member agency water supplies through Metropolitan's system and other affected facilities, including all other affected downstream member agency connections and systems that may receive all or part of the member agency water supplies.
- ii) Prior to initiation of emergency deliveries, the member agency will provide the necessary water quality data to confirm the compatibility of its member agency water supplies (either treated or untreated) with Metropolitan's water and distribution system. Water quality characteristics of the supplied water must be compatible with Metropolitan's water to ensure compliance with regulatory, aesthetic, physical, and operational objectives in Metropolitan's system.
- iii) The member agency is responsible for obtaining all required drinking water permits and/or approvals for the new water source(s) from the State Water Resources Control Board, Division of Drinking Water. If another member agency is not participating in emergency deliveries but is affected by a member agency's participation, the participating member agency will coordinate with the affected agency and ensure that all compliance and permitting requirements are met for the affected agency.

(f) Indemnification: The member agency must indemnify Metropolitan for any claims arising from the emergency deliveries as set forth in Section 4502 of Metropolitan's Administrative Code, as may be amended over time, and from any costs or liability arising out of any violation by the member agency of any laws or regulations related to the emergency deliveries, including but not limited to CEQA and its implementing regulations. In addition to indemnity under Section 4502 of Metropolitan's Administrative Code, the member agency shall defend, indemnify, and hold harmless Metropolitan, its Board of Directors and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with any effects on the member agency's, its member subagencies', or any other affected parties' water quality and/or operations as a result of the emergency deliveries.

(g) System Integrity: The member agency is responsible for paying for all costs of repairing any damage resulting from the emergency deliveries that occurs in the portion of Metropolitan's system being used and affected by the member public agency during the period of emergency deliveries. To ensure the timely return of Metropolitan's facilities to service and in accordance with Metropolitan's standards, Metropolitan may elect to perform the repairs on a reimbursable basis, at the General Manager's discretion.

- (h) Compensation: The member agency will compensate Metropolitan for the delivery of member agency water supplies through Metropolitan's system as follows:
- i) The member agency will not be required to pay Metropolitan's rate for wheeling service for the delivery of the member agency's water supplies through Metropolitan's system during an emergency.
  - ii) The member agency will pay Metropolitan for its direct costs and administration fees, as determined by the General Manager, incurred as a result of the emergency deliveries (e.g., costs associated with the use of a Metropolitan pump station to make emergency deliveries of member agency water supplies or system modifications needed to facilitate emergency deliveries).
  - iii) The member agency will pay Metropolitan's full service rate (all rates and charges that apply to full service deliveries) for Metropolitan water flushed through Metropolitan's system at the conclusion of the emergency for flushing related to emergency deliveries. Flushing costs related to Metropolitan's own activities (e.g. flushing a repair zone upstream of the area used by the member agency for emergency deliveries) are not the responsibility of the member agency.
- (i) Operational Requirements: Operational requirements for the emergency deliveries of member agency water supplies in Metropolitan's system include:
- i) The member agency is responsible for ensuring that emergency deliveries of member agency water comply with Administrative Code requirements, including but not limited to, Chapter 8: System Interconnections – Hydraulic Transients.
  - ii) The member agency shall request and obtain approval from Metropolitan for emergency deliveries of member agency water supplies into Metropolitan's system in advance of initiating emergency deliveries.
  - iii) Metropolitan shall permit commencement of emergency deliveries of member agency water supplies at its sole discretion.
  - iv) At the conclusion of the emergency, a short shutdown will occur to flush the system with Metropolitan water and return the system to its normal operating configuration. The member agency agrees to cooperate with Metropolitan to return the system to its normal operating configuration as soon as possible after the restoration of Metropolitan's system, as determined by Metropolitan's General Manager.
  - v) Alternatively, rather than flushing the system with Metropolitan water at the conclusion of the emergency, the member agency can opt for Metropolitan to flush the system by pushing the member agency water supplies back to the member agency for its own use, if the member agency accepts responsibility for this process.



(j) Term for Emergency Deliveries: In his sole discretion, Metropolitan's General Manager shall determine: (i) when the emergency begins; and (ii) when the emergency ends because emergency deliveries are no longer necessary or need to be discontinued. Emergency deliveries of member agency water supplies shall not exceed one year in length unless a longer term is approved by Metropolitan's Board of Directors. Metropolitan will endeavor to provide the member agency with 72 hours' notice of the conclusion of the emergency and the return of normal operations.