

**The County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County
Areawide Urban Storm Water Runoff**

- b) The permittees' obligation under this order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges.
- c) The permittees have the authority to levy service charges, fees, or assessments to pay for compliance with this order, where voter approval is needed, the permittees should strive to gain voter approval⁵.
- d) The permittees requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act Section 301, subdivision (a). (33 USC § 1311(a)).

B. REGULATED ENTITIES (PERMITTEES OR DISCHARGERS)

- 6. On July 22, 2006, the County of Orange, Orange County Flood Control District (OCFCD) and the incorporated cities of Anaheim, Brea, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, Laguna Hills, Laguna Woods, La Habra, La Palma, Lake Forest, Los Alamitos, Newport Beach, Orange, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster, and Yorba Linda (hereinafter collectively referred to as permittees or dischargers), submitted NPDES Application No. CAS618030 and a Report of Waste Discharge for reissuance of their areawide urban storm water permit. In order to more effectively carry out the requirements of this order, the permittees have agreed that the County of Orange will continue as principal permittee and the OCFCD and the incorporated cities will continue as co-permittees. Certain portions of the cities of Laguna Hills, Laguna Woods and Lake Forest are within the San Diego Regional Board's jurisdiction. As such, these cities are also regulated under urban storm water permit issued by the San Diego Regional Board.
- 7. The permittees fall into one of the following categories: (1) a medium or large municipality that services a population of greater than 100,000 or 250,000 respectively; or, (2) a small municipality that is interrelated to a medium or large municipality. Under Section 402(p) of the Clean Water Act, these dischargers (permittees) are required to obtain coverage under an NPDES permit for storm water runoff from their jurisdictions.

C. REGULATED DISCHARGES

- 8. This order is intended to regulate the discharge of pollutants in urban storm water runoff from anthropogenic (generated from human activities) sources and/or activities within the jurisdiction and control of the permittees and is not intended to address background or naturally occurring pollutants or flows.
- 9. The permittees own and operate storm drains, including flood control facilities. Some of the natural channels, streambeds and other drainage facilities that are generally considered as waters of the US have been converted to flood control

⁵ For example, the City of Santa Cruz voted to raise property taxes to fund the storm water program at the November 4, 2008 election (see: http://www.santacruzsentinel.com/localnews/cj_10904561).

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facilities. The permittees have established legal authority to control discharges into these systems that they own, operate and/or regulate. As owners and/or operators of the MS4 systems, the permittees are responsible for discharges into their systems that they do not prohibit or control (except where they lack jurisdiction; see A.10 below). The discharge of pollutants into the MS4s may cause or contribute to, or threaten to cause or contribute to, a condition of pollution in receiving waters. Federal regulations, 40 CFR 122.26(d)(2)(i), require the permittees to control the discharge of pollutants into the MS4s to the maximum extent practicable.

10. The permittees may lack legal jurisdiction over urban runoff into their systems from some state and federal facilities, utilities and special districts, Native American tribal lands, waste water management agencies and other point and non-point source discharges otherwise permitted by the Regional Board. The Regional Board recognizes that the permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in urban runoff may be beyond the ability of the permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear and leaching of naturally occurring minerals from local geography.
11. This order regulates storm water runoff and certain types of de-minimus discharges specifically authorized under Section III of this order (collectively referred to as urban runoff) from areas under the jurisdiction of the permittees. For purposes of this order, urban runoff includes storm water and authorized non-storm water (see Section III) discharges from residential, commercial, industrial and construction areas within the permitted area and excludes discharges from feedlots, dairies, and farms. Urban runoff consists of surface runoff generated from various land uses in all the hydrologic drainage areas that discharge into waters of the US. The quality of these discharges varies considerably and is affected by land use activities, basin hydrology and geology, season, the frequency and duration of storm events, and the presence of illicit discharge⁶ practices and illicit⁷ connections.
12. The permittees have the authority to approve plans for residential, commercial, and industrial developments. If not properly controlled and managed, urbanization could result in the discharge of pollutants in urban runoff⁸. "America's Clean Water-The States' Nonpoint Source Assessment, 1985" and the Biennial National Water Quality Inventory Reports to Congress cite urban runoff as a major source of

⁶ Illicit discharge means any disposal, either intentionally or unintentionally, of material or waste that can pollute urban runoff or create a nuisance.

⁷ Illicit connections are those which are not properly authorized or permitted by the municipality or the owner/operator of the conveyance system.

⁸ U.S. EPA. 1983. Results of the Nationwide Urban Runoff Program, Vol. 1, Final report. NTIS PB84-185552.

beneficial use impairment. Urban area runoff may contain⁹ elevated levels of pathogens (e.g., bacteria, protozoa, viruses), sediment, trash, fertilizers (nutrients, compounds of nitrogen and phosphorus), pesticides (e.g., DDT, Chlordane, Diazinon, Chlorpyrifos), heavy metals (e.g., cadmium, chromium, copper, lead, zinc), and petroleum products (e.g., oil, grease, petroleum hydrocarbons, polycyclic aromatic hydrocarbons). Urban runoff can carry these pollutants to rivers, streams, lakes, bays and the ocean (receiving waters¹⁰). In addition, increased flows due to urbanization may increase erosion of stream banks and channels and cause stream channel alterations and impact aquatic resources. This order regulates the discharge of pollutants to waters of the US, to protect beneficial uses of the receiving waters.

13. Urban activities also generate non-storm water discharges such as air conditioning condensate, irrigation runoff, individual residential car washing, etc., generally referred to as de minimus type of discharges. If properly managed, these types of discharges may not contain significant amount of pollutants. Some of these de minimus types of discharges are currently being regulated under separate orders issued by the Regional Board, and some of the specific types of de minimus discharges are authorized under this order (see Section III of this order). Orders No. R8-2003-0061 (NPDES No. CAG998001), R8-2004-0021 (NPDES No. CAG998002) and R8-2007-0041 (NPDES No. CAG918002) issued by the Regional Board regulate de-minimus types of discharges.

D. HISTORY OF ORANGE COUNTY MUNICIPAL STORM WATER PERMIT

14. Prior to EPA's promulgation of the storm water permit regulations, the three counties (Orange, Riverside, and San Bernardino) and the incorporated cities within the jurisdiction of the Santa Ana Regional Board requested areawide NPDES permits for urban runoff. On July 13, 1990, the Regional Board adopted Order No. 90-71 for urban storm water runoff from urban areas in Orange County within the Santa Ana Region (first term Permit). Orders No. 96-31 (second term Permit) and R8-2002-0010 (third term Permit), issued by the Regional Board on March 8, 1996 and January 18, 2002, respectively, renewed the Orange County MS4 permit.
15. Order No. R8-2002-0010 expired on January 19, 2007. On July 22, 2006, the permittees submitted a Report of Waste Discharge for renewal of the Permit. On February 20, 2007, Order No. 2002-0010, NPDES No. CAS618030, was administratively extended in accordance with Title 23, Division 3, Chapter 9, §2235.4 of the California Code of Regulations.

⁹ Makepeace, D.K., D.W. Smith, and S.J. Stanley. 1995. Urban stormwater quality: summary of contaminant data. *Critical Reviews in Environmental Science and Technology* 25(2):93-139.

¹⁰ Receiving waters are waters of the U.S. (and their tributaries) which are identified in the Basin Plan as having certain beneficial uses (see Finding 19, below, for a list of these waters).