



California Regional Water Quality Control Board Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Agency Secretary

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Arnold Schwarzenegger
Governor

January 23, 2006

Mr. Roy Romer
Superintendent of Schools
Los Angeles Unified School District
Office of the Superintendent
333 S. Beaudry Ave., 24th Floor
Los Angeles, CA 90017

STORM WATER MANAGEMENT PROGRAM FOR LOS ANGELES UNIFIED SCHOOL DISTRICT FACILITIES

Dear Mr. Romer:

This letter is to inform you of the federal storm water regulations and permitting requirements that are applicable to school district facilities in the Los Angeles Region, and also provide clarification on a couple of issues in regard to post construction design standards as identified by the Los Angeles Unified School District (LAUSD) staff during a meeting convened by the City of Los Angeles sometime ago.

There are three National Pollutant Discharge Elimination System (NPDES) permits for storm water discharges, which may currently apply to LAUSD:

General Industrial Activity Storm Water Permit

The Industrial Activity Storm Water General Permit (IASGP) (Permit No. 97-03-DWQ) is an NPDES permit that regulates discharges associated with ten (10) broad categories of industrial activities. For LAUSD, the coverage under IASGP is limited to school bus maintenance yards at this time. LAUSD for all such facilities must already have submitted a Notice of Intent for coverage to the State Water Resources Control Board, prepared and implemented a Storm Water Pollution Prevention Plan (SWPPP), and conducted monitoring as required.

General Construction Activity Storm Water Permit

The Construction Activity Storm Water General Permit (CASWGP) (Permit No. 99-08-DWQ) is an NPDES permit that regulates discharges associated with projects that disturb one or more acres of soil. LAUSD must have already submitted, for all its construction projects that disturb one or more acres of land, a Notice of Intent for coverage to the State Water Resources Control Board, and prepared and implemented a SWPPP. The SWPPP must identify and implement adequate post construction controls. CASWGP states that Post construction Best Management Practices (BMPs) "must be consistent with all local post construction storm water management requirements, policies, and guidelines." The Los Angeles Regional Water Quality Control Board (Regional Board) adopted Resolution No. R-00-02 on January 26, 2000 for new

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development and redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post construction storm water (See Attachment). For post construction BMPs, the Resolution requires all construction projects subject to coverage under the CASWGP to meet, at a minimum, numeric design standards specified under the Standard Urban Storm Water Mitigation Plan (SUSMP) which are applicable to all construction projects covered by the Phase 1 MS4 municipalities in the Los Angeles Region.

Statewide Small Municipal Separate Storm Sewer Systems Permit

The Statewide Small Municipal Separate Storm Sewer Systems (MS4) Permit (Permit No. 2003-0005-DWQ) is an NPDES permit that regulates discharges from traditional Small MS4s, such as those serving a population of 50,000 people or more, or communities that are subject to high growth, and are currently not under permit under a Phase I MS4 Permit, and non-traditional MS4s such as federal and state facilities including school districts. An "MS4" is a conveyance or system of conveyances designed or used for collecting or conveying storm water. Under the Small MS4 Permit, non-traditional Small MS4s, such as the LAUSD, are not automatically designated for coverage. Rather, the Regional Board must first designate a non-traditional Small MS4 before it is required to apply for coverage under a Phase II Small MS4 Permit. Due to current resource limitations at the Regional Board, it is unlikely that all facilities in the LAUSD will be designated for coverage under a Small MS4 Permit during the upcoming fiscal year (July 2006 to June 2007). Hence, the Small MS4 Permit provisions do not currently apply to LAUSD. The Regional Board may consider taking a more strategic approach to addressing water quality in the Los Angeles Region, and designate educational facilities in high priority watersheds like the Los Angeles River and the Ballona Creek watersheds for coverage under a future watershed-wide Small MS4 Permit.

At the meeting with the City of Los Angeles, LAUSD staff were under the impression that only school parking lots were subject to post construction design standards, despite the express language in Resolution No. R-00-02. The confusion seems to have arisen because of Attachment 4 in the Statewide Small MS4 Permit, which contains the same categories and definitions as in the Los Angeles County SUSMP. These provisions are not in effect, because the Regional Board has not yet designated LAUSD partly or wholly as an entity subject to Statewide permit coverage under the Statewide Small MS4 Permit.

Also at the meeting, a question arose as to the date when the post construction control requirements became effective. While the Statewide Small MS4 Permit states that it "does not require redesign of K-12 school or community college facilities that have been submitted to the Department of General Services, Division of the State Architect before adoption of the permit, and which receive final approval from the State Allocation Board or the Public Works Board, as appropriate, on or before December 31, 2004," the above provisions do not apply to LAUSD presently. As stated before, the post construction control requirements in the CASWGP as interpreted in Board Resolution No. R-00-02, are applicable and have been in effect since January 26, 2000. The State Board has never exempted school construction activity from compliance with the CASWGP. The Los Angeles County Office of Education submitted a comment letter on October 12, 2004, expressing concerns in implementing post construction permit requirements consistent with Board Resolution No. R-00-02. We are not aware of any

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authority which exempts an entity (including a school district) undertaking construction or redevelopment activity that disturbs one or more acres of land, from compliance with the construction and post-construction controls requirements of the CASWGP.

In summary, the only governing NPDES permit for a post construction control program applicable to LAUSD at this time is the CASWGP. In the Los Angeles Region, a post construction control program being implemented under the CASWGP is required to meet, at a minimum, the numerical design standards specified under the SUSMP per Resolution No. R-00-02. This means that the entire project area must be considered for compliance with the SUSMP design standards, not just parking lots. The date for compliance has been in effect since January 26, 2000.

We appreciate the proactive steps taken by the LAUSD in preparation for designation for coverage under the Small MS4 Permit. We also applaud LAUSD for their Leadership Excellence through the Administrator Development (LEAD) program as well as their cooperative participation toward implementation of the City of Los Angeles Integrated Resources Plan (IRP) to meet the City's wastewater, storm water and recycled water considerations through the year 2020. We also note the adoption of a Resolution on Sustainability and the Design and Construction of High Performance Schools by the LAUSD Board of Education on October 27, 2003. The Resolution was adopted to develop BMPs that will result in efficient use of water resources, and maximize beneficial use of storm water runoff.

If you have any further questions or comments, please feel free to contact Dr. Xavier Swamikannu at (213) 620-2094.

Sincerely,



Jonathan Bishop
Executive Officer

Enclosure – Regional Board Resolution No. R-00-02

cc: See attached Mailing List

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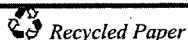


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Mailing List:

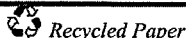
Michael Levy, Office of Chief Counsel, State Water Resources Control Board
Bruce Fujimoto, Division of Water Quality, State Water Resources Control Board
Mike Schultz, Water Division, US Environmental Protection Agency, Region 9
Dan Lafferty, County of Los Angeles, Department of Public Works
Jeff Pratt, Watershed Protection District, County of Ventura
Shahram Kharaghani, Bureau of Sanitation, City of Los Angeles
Hyginus Mmeje, Bureau of Sanitation, City of Los Angeles
Angelo Bellomo, Los Angeles Unified School District
Roger Chang, Los Angeles County Office of Education
Tom Duffy, California's Coalition for Adequate School Housing
Andy Lipkis, Tree People
Mark Gold, Heal the Bay
Tracy Egoscue, Santa Monica Bay Keeper
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Superintendent, Balwin Park Unified School District
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Michael McLaughlin, Superintendent, Briggs Elementary School District
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Beverly Silsbee, Superintendent, Castaic Union School District
Cheryl White, Superintendent, Centinela Valley Union High School District
Norm Kirschenbaum, Superintendent, Charter Oak Unified School District
Sheralyn Smith, Superintendent, Claremont Unified School District
Jesse Gonzales, Superintendent, Compton Unified School District
Robert Fraise, Superintendent, Conejo Valley Unified School District
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George Mannon, Superintendent, Glendora Unified School District

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Superintendent, Jack Rose, San Marino Unified School District
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Judy Fish, Superintendent, Saugus Union Elementary School District
Kathryn Scroggin, Superintendent, Simi Valley Unified School District
Superintendent, Somis Union Elementary School District
Rob Arias, Superintendent, South Pasadena Unified School District

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Mr. Romer
Superintendent of Schools
Los Angeles Unified School District

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Superintendent, South Whittier Elementary School District
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Joan Hillard, Superintendent, Temple City Unified School District
Steven Fish, Superintendent, Torrance Unified School District
Superintendent, Valle Lindo Elementary School District
Trudy Tuttle-Arriaga, Superintendent, Ventura Unified School District
Kent Bechler, Superintendent, Walnut Valley Unified School District
Richard Vladovic, Superintendent, West Covina Unified School District
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Roger Chang, Los Angeles County Office of Education

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES
REGION

Resolution No. R-00-02

APPROVING THE
STANDARD URBAN STORM WATER MITIGATION PLAN
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF MANAGEMENT PROGRAMS
IN LOS ANGELES COUNTY

**WHEREAS, THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION FINDS:**

1. On July 15, 1996, a municipal separate storm sewer system permit (Los Angeles County MS4 Permit) was issued to the County of Los Angeles and 85 incorporated cities to control and minimize the discharge of pollutants associated with storm water and urban runoff. This permit became Regional Board Order No. 96-054, Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles.
2. On June 30, 1999, a municipal storm water permit was issued to the City of Long Beach (City of Long Beach MS4 Permit) which removed the City of Long Beach from Board Order No. 96-054, giving the City of Long Beach its own distinct Municipal Storm Water and Urban Runoff NPDES permit, Regional Board Order No. 99-060, "Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the City of Long Beach".
3. On August 19, 1999, a statewide general storm water permit for construction activity (Statewide Construction Storm Water Permit) was adopted by the State Water Resources Control Board (State Board). This permit became State Board Order No. 99-08-DWQ, and applies to construction projects that disturbs five acres or more or is part of a larger common plan of sale in the Los Angeles region.
4. Many of the rivers and streams in Los Angeles County are formally designated as impaired, pursuant to Section 303 (d) of the federal Water Pollution Control Act, for specific pollutants that are commonly found in storm water and urban runoff.
5. Storm water runoff carries with it many pollutants in varying concentrations that are suspended in, and or dissolved, in the runoff. The sources of these pollutants include nearly all properties that have been developed since the pollutants originate through the many diverse activities of habitation and land use. Pollutants generated from individual property developments vary greatly in the concentration or loading of each pollutant. Generally, the relative contribution of the pollutant from runoff from any individual property development will represent only a small portion of the entire loading of a water body given the many square miles of land upon which storm water runoff is generated. When the individual contributions from tens of thousands of discrete property units are aggregated, the pollutant loading becomes significant. The resultant pollutant loads results in the impairment of that water body and the conveyance of pollutants, including sediments, metals, complex organic compounds, oil and grease, nutrients, and pesticides to the ocean and harbors within Los Angeles County. The loading of pollutants generated in the Los Angeles area are being measured through the monitoring program being conducted by the Los Angeles County Department of Public Works in conformance with its obligations as the Principal Permittee under the Los Angeles County MS4 Permit.

6. The nature of property use is related to the types and quantities of pollutants that are transported from that property during a rainfall event.
7. As property is developed or redeveloped, the utilization of Best Management Practices provide an opportunity to reduce the loading of pollutants to water bodies. This is accomplished by various techniques and can be passive (source reduction) or active (treatment). As property is developed from undisturbed lands, the project can be designed to incorporate Structural or Treatment Control (Best Management Practices (BMPs) that would normally not be available or practical to use on property that has been in urban use.
8. BMPs are effective means of reducing pollutants and Structural or Treatment Control BMPs can be "designed-into" a project in a cost effective way and in a manner that is either transparent to or which enhances the use to which the property has been placed. Some BMPs encourage the setting aside of areas as a greenbelt to allow storm water runoff to flow over areas which are permeable, thereby allowing all or a portion of the runoff to infiltrate. Other BMPs can be designed and built into structures such as catch basins that incorporate replaceable filters to absorb oily wastes or by installing screens to prevent litter from passing through the system and into the water body.
9. Arrays of Structural or Treatment control BMPs are available to developers of both new and redevelopment properties. The use of BMPs is already required by the terms of the Los Angeles County and Long Beach Municipal Storm Water and Urban Runoff NPDES permits.
10. The ability of any BMP to be effective is limited by the volume of water that the BMP is exposed to in any discrete period of time. A BMP that can only be effective for a small volume of storm water runoff is inherently less effective than one sized to accommodate a larger volume of water.
11. Storm water runoff will normally convey a disproportionate loading of pollutants in the initial period runoff is generated during a storm event. Storm events generating up to 0.75 inches of precipitation, measured over a 24-hour period, constitute 85 percent of the total amount of runoff that can be expected during an average wet season. Designing a BMP to be able to accommodate this amount of runoff will result in the application of a BMP intervention to all but 15% of the total runoff during a year, and usually all of the critical runoff that occurs in the early phase of the precipitation event, commonly referred to as the "first Flush."
12. Both the Los Angeles County MS4 Permit (Part III.A.1.c) and the City of Long Beach MS4 Permits contain provisions related to the adoption of Standard Urban Storm Water Mitigation Plans (SUSMPs) requiring their development and implementation.
13. Standard Urban Storm Water Mitigation Plans are required for a specified set of enumerated projects and the permit specifically identifies seven distinct categories for which SUSMPs are required to be prepared. The permit specifically states that the seven categories of projects are the minimum categories requiring SUSMPs.
14. Standard Urban Storm Water Mitigation Plans are also required for development or redevelopment of Parking Lots 5,000 square feet or greater and Locations in Environmentally Sensitive Areas. These categories have been added to advance efforts to control storm water pollution beyond the minimum in Los Angeles County.
15. Standard Urban Storm Water Mitigation Plans are required to be approved by the Regional Board Executive Officer following which they are to be implemented by the Permittees and used by the Permittees as the minimum criteria for the approval of project specific Urban Storm Water Mitigation Plans and the issuance of grading or building permits to project applicants.
16. The Statewide Construction Storm Water Permit requires that Storm Water Pollution Prevention Plans (State SWPPPs) contain post-construction BMPs that will be implemented after construction is complete.

17. Section 402 (p) of the Clean Water Act requires the Administrator of the United States Environmental Protection Agency or her designated agent, in this instance, the Regional Board, to require as part of the storm water program "controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." [USC Section 1342 (p)(3)(B)].
18. A recent decision of the United States 9th Circuit Court of Appeals, *Defenders of Wildlife v. Browner* (1999) Case No. 98-71080, provides additional support and clarification of the authority of the Administrator and the Regional Board to impose additional controls on storm water pollution. The Court in *Defenders of Wildlife v. Browner* said that the USEPA and the States have discretion under the law to determine what pollution controls are appropriate to achieve compliance.
19. Pursuant to the requirements of Regional Board Order No. 96-054, Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles, the Regional Board Executive Officer received a proposal for Standard Urban Storm Water Mitigation Plans submitted by the Principal Permittee.
20. Upon the review of the Regional Board Executive Officer, the Standard Urban Storm Water Mitigation Plan submitted for the seven applicable categories was deemed inadequate. A revised SUSMP proposal was developed subsequent to a discussion of the proposal's conceptual foundation at a public workshop held on August 10, 1999. This workshop was well attended with over 80 municipal representatives and interested parties participating.
21. On August 16, 1999, a public notice was issued indicating that the Standard Urban Storm Water Mitigation Plans proposed by the Principal Permittee would be augmented by the addition of criteria related to specifying numerical design criteria for BMP construction. The matter was noticed for the Regional Board's September meeting to allow the issue to be discussed before the Board although no formal action of the Regional Board itself is required for SUSMP approval.
22. On September 16, 1999, the Regional Board conducted a public hearing on the Standard Urban Storm Water Mitigation Plan proposal as amended by the Executive Officer. At that hearing, the Regional Board Executive Officer suggested additional time would be necessary to develop a more comprehensive proposal incorporating the comments received at the public hearing.
23. Between September 16, 1999 and January 25, 2000, the Regional Board Executive Officer met with interested parties to discuss comments and concerns from interested parties.
24. The Southern California Council of Governments (SCAG) has indicated its interest in obtaining funding to prepare a regional plan(s) to address storm water pollution and identify regional treatment solutions for implementation.
25. On December 7, 1999, the Regional Board Executive Officer released a revised Standard Urban Storm Water Mitigation Plan document to interested parties.

THEREFORE BE IT RESOLVED THAT:

1. The Regional Board endorses the Standard Urban Storm Water Mitigation Plan prepared by the Regional Board Executive Officer and noticed to the public on December 7, 1999 and the concepts therein relating to numerical storm water mitigation standards for Best Management Practices; and
2. The Regional Board directs the Regional Board Executive Officer to approve the Standard Urban Storm Water Mitigation Plan at the earliest opportunity incorporating changes made and formally approved by the Regional Board at the January 26, 1999 Board Hearing;

3. The Regional Board adopts the approved requirements as provisions applicable to the SUSMP requirements for the City of Long Beach.
4. The Regional Board adopts the numerical mitigation standards for storm water, endorsed herein, as the minimum design criteria for review of post-construction BMPs in the Los Angeles Region for construction projects subject to coverage under the Statewide Construction Storm Water Permit.
5. The Regional Board encourages the Permittees and all interested parties to work together in a spirit of cooperation to effect the implementation of the Standard Urban Storm Water Mitigation Plan at the earliest possible date, and
6. The Regional Board encourages the efforts by the Southern California Council of Governments and area Council of Governments (COGs) to develop regional plans and identify regional solutions to address storm water pollution from new development and redevelopment.

I, Dennis Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on January 26, 2000.

ORIGINAL SIGNED BY

DENNIS A. DICKERSON
Executive Officer