



Ventura Countywide Stormwater Quality Program  
Implementation of the Municipal Separate Storm Sewer Systems (MS4)

**A VCEDA Issue Paper**

**Background**

In response to the federal Clean Water Act (CWA) the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) has issued a National Pollutant Discharge Elimination System (NPDES) permit for Waste Discharge Requirements for Stormwater Discharges for Municipal Separate Storm Sewer System (MS4) for the County of Ventura and the 10 incorporated cities therein.

To develop technical guidelines for the implementation of the MS4 permit, the Ventura County Watershed Protection District is preparing a technical guideline manual. The draft manual incorporating stakeholder comments is scheduled to be released on March 26, 2010 with a two week public comment period, after which the final draft will be submitted to the Regional Water Board on April 30, 2010. The guidelines and the regulations they implement will be effective 90 days after they are approved.

Once approved, all new development, public and private will be required to meet the requirements set forth in the guidelines.

**The Effect of the MS4 Permit and Guidelines**

The intent of the permit is to fundamentally change development through use of “low impact development” (LID). All projects must capture, treat, retain and infiltrate runoff from storm events. Virtually no storm water runoff will be permitted during storm events!

The Ventura County MS4 permit is unique among permits adopted for other counties (4 of them adopted after the Ventura County permit) in that storm water runoff is limited to 5% of a site’s Effective Impervious Area (EIA) unless technically infeasible. If the 5% EIA limit is demonstrated to be infeasible, then the EIA is limited to a maximum of 30% of the total project area. This means that runoff must either percolate, evapotranspire or be captured, stored and reused to the extent of 100% of the full design treatment volume.

There is no exemption from the 30% maximum EIA requirement and demonstration of infeasibility to meet the 5% requirement is intended to be difficult and does not include economic infeasibility. Only where infeasibility can be established, will an offsite solution, such as contribution to a regional stormwater treatment plant be considered and, then, the project and the treatment plant must be in the same watershed.

These regulations apply to public and private development. They apply to new development and redevelopment, including, for example: 1) creation of 5000 sq. ft. or more of impervious surface; 2) redevelopment of a site if 50% or more of its impervious surface is altered; 3) parking lots of 5,000 sq. ft. or more of impervious surface or with 25 or more parking spaces; 4) streets, highways and freeways installing or constructing 10,000 sq. ft or more of impervious surface; and 5) all development within 200 ft. or less or discharging directly to an area in which plant or animal life or their habitat are either rare or especially valuable because of their special nature or role in the ecosystem and which could be easily disturbed or degraded by human activities and developments.

(For more detailed information see “What Does MS4 Really Mean To Your Pocket Book?” by Nancy Kierstyn Schreiner of Nordman Cormany Hair & Compton, LLP. <http://www.nchc.com/display-real-estate-article.asp?RealID=9>)

## **The Business Community Response**

While we all want to protect our oceans and waterways from excessive pollution, it is clear that these regulations will have a dramatic impact on public and private development in Ventura County, adding increased project costs to consumers and taxpayers, or halting development and redevelopment entirely.

There is private sector concern about how these regulations were developed. The Building Industry Association of Southern California (BIA) has appealed the adoption of these regulations to the State Water Board, primarily on the grounds that there was not sufficient private sector input into their development.

It should also be noted that these regulations were developed exclusively for Ventura County, under threat of legal action by single purpose special interest groups. Other jurisdictions in Southern California have different guidelines that are less onerous. This appears to be due to Ventura County's natural geography, relatively small population and relatively small city and county resources to contest the regulations. The technical guideline manual is being prepared by personnel of the Watershed Protection District and of several cities' public works departments, who have no expertise or familiarity with the general plan, redevelopment, transportation, air pollution control and other policies of the county, much less the 10 cities, to which the manual will apply. This creates the risk of inconsistency between the new regulations and these policies.

## **VCEDA recommendations**

- 1) VCEDA supports and encourages VCEDA members and the business community to support, financially if possible, BIA's legal challenge to the Ventura County MS4 permit.
- 2) VCEDA urges local elected officials, city and county planners and administrators, and other city and county officials with responsibility for and expertise regarding the full range of city and county policies to contribute to the preparation of the technical guidelines manual, before it is released as a final draft.
- 3) VCEDA urges cities and the county to immediately begin to identify, design and plan for the implementation of stormwater collection and treatment systems within the watershed or watersheds of each city and the county, that can meet the MS4 requirements when attainment on each individual project site is not feasible.

## **VCEDA Actions**

- 1) To help the business community and local officials understand the ramification of MS4 and the guidelines, and the potential for irreconcilable inconsistencies, VCEDA and HOME are co-hosting a workshop on MS4, SB375 and AB32 on March 19, 2010.