

SECTION A-4  
LEGAL AUTHORITY



FOR THE COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY FLOOD CONTROL DISTRICT



## SECTION A-4, LEGAL AUTHORITY

### A-4.0 LEGAL AUTHORITY

#### A-4.1 INTRODUCTION

In 1993, the Orange County Stormwater Permittees prepared a Model Water Quality Ordinance to provide a more uniform, countywide approach and a legal underpinning to the area-wide stormwater program. Subsequently, the County of Orange and the Orange County Flood Control District adopted a largely similar version of the Water Quality Ordinance as Ordinance Numbers 3986 and 3987 respectively and provided certifications of their adoption to the Regional Boards in 1997. A corresponding *Enforcement Consistency Guide* (**Exhibit 4.1** of the **DAMP**) was also developed and implemented by the Permittees in 1997 to accompany the ordinance. In addition, the County has designated the Authorized Inspector(s) responsible for enforcing the Ordinances (**LIP Section A-10**). The Authorized Inspector is the person(s) designated to investigate compliance with, detect violations of and/or take actions pursuant to the County Water Quality Ordinances.

The County is in the process of updating its existing water quality ordinances to ensure adequate legal authority within its jurisdiction to comply with the Fourth Term San Diego Region MS4 Permit (Order No. R9-2009-0002). The water quality ordinances applicable to the County are as follows:

Orange County Codified Ordinance	Applicable Areas
County of Orange Water Quality Ordinance - Title 4, Division 13 (OCCO § 4-13-10 et seq.)	Unincorporated County
Orange County Flood Control District Water Quality Ordinance - Title 9, Division 1 (OCCO § 9-1-10 et seq.)	Orange County Flood Control District Right of Way

#### A-4.2 REGULATORY REQUIREMENTS

The San Diego Region Fourth Term MS4 Permit (Order No. R9-2009-0002), Directive E, requires the County to establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means.

Likewise, the Santa Ana Region Fourth Term MS4 Permit (Order No. R8-2009-0030), Section VI, requires the County to maintain adequate legal authority to control the discharge of pollutants to the MS4s from urban runoff and enforce those authorities. It also stipulates that this is to be accomplished through ordinance, statute, permit, contract or similar means.

#### A-4.3 AUTHORITY TO CONTROL POLLUTANT DISCHARGES

The County's water quality ordinances are the principal legal foundation of the County's water quality/pollution prevention program. This legal authority enables the County to:

- Control the contribution of pollutants in discharges of runoff associated with industrial and construction sites;



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- Prohibit all identified illicit discharges not otherwise allowed;
- Prohibit and eliminate illicit connections to the MS4;
- Control the discharge of spills, dumping or disposal of materials other than storm water into its MS4;
- Require compliance with conditions in the County's ordinances, permits, contracts or orders;
- Utilize enforcement mechanisms to require compliance with storm water ordinances, permits, contracts, or orders;
- Control the contribution of pollutants from one portion of the MS4 to another portion of the MS4 through interagency agreements among other MS4 owners;
- Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with local ordinance and permits and with this Order, including the prohibition on illicit discharges to the MS4;
- Require the use of BMPs to prevent or reduce the discharge of pollutants into the MS4s from storm water to the maximum extent practicable (MEP); and
- Require documentation on the effectiveness of BMPs implemented to reduce the discharge of storm water pollutants to the MS4 to the Maximum Extent Practicable (MEP).

### A-4.3.1 Other County Pollution Prevention Codes/Ordinances

In addition to the County's water quality ordinances, other sections of the County's codified ordinances which also address water quality protection and pollution prevention and contribute to a comprehensive water quality/pollution prevention program. These complementary codes are as follows:

- 1) The Orange County Grading and Excavation Code (OCCO Sec. 7-1-800 et seq.) regulates excavation, grading and establishes administrative requirements for the issuance of permits in accordance with the requirements in the Uniform Building Code. The Grading Ordinance requires all permittees to comply with the relevant provisions of the 2003 DAMP and LIP governing grading activities. For further discussion of the County's Grading Ordinance, particularly as it applies to the requirements in Section F.2.b. of the San Diego Permit, please refer to Section A-8, Construction.
- 2) Section 106.4.1 of the California Building Code which has been expressly adopted by the County (OCCO Sec. 7-1-19) provides:

*The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other County departments to verify compliance with any applicable laws and ordinances under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this Code and other pertinent laws and ordinances, and that the fees specified in section 107 have been paid, he shall issue a permit therefore to the applicant.*



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The California Building Code and local building ordinances therefore expressly permit the Building Official to include as a condition of the Building Permit compliance with County Ordinances other than the Building Ordinance. This would include the Water Quality Ordinance and the requirements contained in the DAMP enacted under the Water Quality Ordinance. The Building Official, therefore, has the authority to enforce the water quality requirements contained in the DAMP and LIP relevant to construction activities that have been incorporated as part of a building permit both during the grading phase of construction as well as during construction subsequent to the completion of grading.

- 3) The Fats, Oils, and Grease Disposal Ordinance (OCCO Sec. 9-1-120 et seq.), specifies appropriate disposal requirements for a food facility to assure that those facilities control, and appropriately dispose of fats, oils and grease so as to assure that their operations do not cause sanitary sewer blockages .
- 4) The Orange County Solid Waste Management Ordinance (OCCO Sec. 4-3-17 et seq.), regulates where solid and liquid wastes, including hazardous and industrial wastes may and may not be deposited or discharged.
- 5) The Uniform Fire Code, which has been adopted into the codified ordinances of the County and the cities and prohibits the discharge of any waste liquid containing crude petroleum or its products "into or upon" any drainage canal or ditch, storm drain, sewer, or upon the ground.
- 6) The Orange County Landscape Irrigation Code (OCCO Sec. 7-9-132.2 et seq.), regulates the design, installation, and maintenance of landscaping in a manner that conserves regional water resources by ensuring that landscaping projects are not unduly water-needy and that irrigation systems are appropriately implemented to minimize water waste.

### A-4.4 ENFORCEMENT

The County's water quality ordinances include adequate legal authority, to the extent permitted by California and Federal Law and subject to the limitations on municipal action under the constitutions of California and the United States, to enter, inspect and gather evidence (pictures, videos, samples, documents, etc.) from industrial, construction and commercial establishments. Sanctions are in place to allow the City to progressively and decisively take enforcement actions against any violators of their Water Quality Ordinance. The County has adopted the Enforcement Consistency Guide for Water Quality Ordinance Implementation (**DAMP Exhibit 4.I**) and follows the guidelines and procedures included therein.

The detection, elimination and enforcement activities undertaken by the County are described further in **LIP Section A-10.0**. Authorized Inspectors are assigned to investigate compliance with and detect incidences of violations of the County's water quality ordinances. In addition to prohibiting unpermitted discharges, the water quality ordinances also provide the legal authority for requiring BMPs in new development and significant redevelopment found in **DAMP Section 7.0**.



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The County has key departments and staff responsible for overseeing, implementing, and enforcing County ordinances. These departments are identified in the table which is included with the Statements of Legal Authority in **LIP Exhibit A-4.I**.

### **A-4.5 ASSESSMENT**

Upon adoption of the Fourth Term MS4 Permits, the County as Principal Permittee and the other Permittees collectively reviewed all applicable ordinances. The County has concluded that the County's ordinances grant the County the adequate legal authority necessary to implement and enforce the requirements of the permits and a Statement of Legal Authority (**LIP Exhibit A-4.1**) signed by County Counsel, was completed to certify that the County has the legal authority to implement and enforce the requirements in 40 CFR 122.26(d)(2)(i)(A-F).