

Attachment 1: Updated Requirements for Complying with the Land Development Provisions of the 2013 MS4 Permit

The effective date of the updated requirements of the **Municipal Separate Storm Sewer System Permit**, Order No. R9-2013-0001 (hereinafter "**2013 MS4 Permit**"), in the unincorporated County of San Diego is **February 26, 2016**. Any development or redevelopment project^{1,2} that has not obtained a **Prior Lawful Approval**³ (**PLA**) to proceed under earlier MS4 Permit provisions before that date must comply with the updated requirements of the 2013 MS4 Permit and the applicable requirements of the **County Watershed Protection Ordinance (WPO)**. This document generally describes these requirements, and as applicable describes how they are different from earlier MS4 Permit provisions. It is not intended to fully describe or substitute for the specific provisions of either the 2013 MS4 Permit or the WPO.

The primary guidance for complying with these provisions is the **County of San Diego Best Management Practices Design Manual (BMPDM)**. References to applicable sections of the BMPDM are provided throughout this document. The BMPDM and other supporting documents and resources are available on the County's website at:

<http://www.sandiegocounty.gov/content/sdc/dpw/watersheds/DevelopmentandConstruction.html>.

1. Updated Priority Development Project (PDP) Classifications

The updated **Priority Development Project (PDP)** categories of the 2013 MS4 Permit are presented in **Table 1-1**. Projects meeting any of the criteria listed are considered PDPs unless specifically exempted. **Table 1-2** lists exemptions that may qualify a project for exemption from classification as a PDP; these projects need only comply with the requirements identified in **Section 2** and **Table 1-3** below. BMPDM Section 1.4 provides additional information on project classification. Applicants should be aware of the following significant changes in PDP classification from the 2007 MS4 Permit:

- The PDP threshold for residential projects has been lowered from 10 or more units to the creation of 10,000 square feet or more of impervious surfaces (or creation and/or replacement of 5,000 square feet or more for redevelopment projects);
- The PDP threshold for commercial and industrial projects has been lowered from one acre to the creation of 10,000 square feet or more of impervious surfaces (or creation and/or replacement of 5,000 square feet or more for redevelopment projects); and
- Driveways collectively adding 5,000 square feet or more of impervious surface are now specifically identified as PDPs. Driveways were not previously called out as potentially qualifying features.

¹ **Development** means construction, rehabilitation, redevelopment, or reconstruction of any public or private projects. **Redevelopment** is a subset of development that applies specifically to the creation and/or replacement of impervious surface on an already developed site. Examples of redevelopment include the expansion of a building footprint, road widening, the addition to or replacement of a structure. Replacement of impervious surfaces includes any activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include routine maintenance activities, such as trenching and resurfacing associated with utility work; pavement grinding; resurfacing existing roadways, sidewalks, pedestrian ramps, or bike lanes on existing roads; and routine replacement of damaged pavement, such as pothole repair.

² For the purposes of this document, further references to development projects are inclusive of both development and redevelopment projects unless a distinction between the two is specifically noted.

³ For additional information on determining whether a project may proceed under earlier MS4 Permit provisions, see **Guidelines on Establishing Prior Lawful Approval (PLA) to Proceed under Earlier MS4 Permit Provisions**.

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Table 1-1: PDP Categories for Development and Redevelopment Projects under the 2013 MS4 Permit (BMPDM Section 1.4.1)

Development Projects	Redevelopment Projects
A. PDPs by Project or Activity Type	
1. Residential	
Projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site)	Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces)
2. Commercial	
a. General (applies to all commercial projects except 2.b through 2.d below)	
Projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site)	Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces)
b. Restaurants (includes facilities that sell prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812))	
Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site)	
c. Retail Gasoline Outlets (includes RGOs of 5,000 square feet or more, or with a projected Average Daily Traffic of 100 or more vehicles per day)	
Retail gasoline outlets that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site)	
d. Automotive Repair Shops (includes SIC codes: 5013, 5014, 5541, 7532-7534, or 7536-7539)	
Automotive repair shops that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site)	
3. Industrial Projects	
Projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site)	Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces)
4. Public Development Projects	
Projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site)	Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces)
5. Mixed Use Projects	
Projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site)	Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces)
6. Parking Lots (includes any land area or facility used for the temporary parking or storage of motor vehicles used personally, for business, or for commerce)	
Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site)	
7. Street, roads, highways, freeways, and driveways (includes paved impervious surface used for the transportation of automobiles, trucks, motorcycles, and other vehicles)	
Streets, roads, highways, freeways, and driveways that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site)	

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Table 1-1: PDP Categories for Development and Redevelopment Projects under the 2013 MS4 Permit (BMPDM Section 1.4.1)

Development Projects	Redevelopment Projects
B. PDPs by Location Type	
1. Hillside Development (includes development on any natural slope that is twenty-five percent or greater) Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site)	
2. Projects within or Discharging Directly to Environmentally Sensitive Areas New or redevelopment projects that create and/or replace 2,500 square feet or more of impervious surface (collectively over the entire project site), and discharging directly to an Environmentally Sensitive Area (ESA)	
C. Other Pollutant-generating Projects⁴	
New or redevelopment projects that result in the disturbance of one or more acres of land and are expected to generate pollutants post construction	

Table 1-2: Exemptions from Classification as a PDP

A. New or Retrofit Paved Sidewalks, Bicycle Lanes, or Trails (BMPDM Section 1.4.3)
The County does not require that any of the project types described below be classified as PDPs: <ul style="list-style-type: none"> A. New or retrofit paved sidewalks, bicycle lanes, or trails that are: <ul style="list-style-type: none"> i. Designed and constructed to direct stormwater runoff to adjacent vegetated areas, or other non-erodible permeable areas; or ii. Designed and constructed to be hydraulically disconnected from paved streets or roads; or iii. Designed and constructed with permeable pavements or surfaces in accordance with USEPA Green Streets guidance.
B. Existing Paved Alleys, Streets or Roads (BMPDM Section 1.4.3 and Appendix K)
The County does not require that any of the project types described below be classified as PDPs: <ul style="list-style-type: none"> B. Retrofitting or redevelopment of existing paved alleys, streets or roads that are designed and constructed in accordance with the USEPA Green Streets guidance. Compliance with any Green Street guidance developed by the County shall be deemed to satisfy this requirement as long as that guidance is as protective of water quality as the USEPA Green Streets guidance. Green Streets projects are subject to County review and approval.
C. Applicable Conditions on PDP Exemptions
<ul style="list-style-type: none"> • Projects may be exempt from PDP requirements only if they are comprised solely of one of the project types listed within the category. For example, even though sidewalks, trails, or frontage roads might exist within a larger PDP footprint, this would not qualify the PDP to utilize the exemption. • An exemption cannot be claimed by dividing a PDP into smaller “projects” and then applying the exemption to one of them, e.g., separating out a frontage road from a PDP and then applying the exemption to the frontage road. • Projects exempted from PDP classification are still subject to the general, source control, and site design requirements described in Section 2 below.

⁴ The County may require PDP classification according to this category based on site-specific conditions, project or drainage area characteristics, or other factors as determined applicable.

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2. Updated Requirements for All Development Projects (Standard Projects and PDPs)

Per WPO Section 67.811(a)(1)-(4), both Standard Projects and PDPs must comply as applicable with each of the requirements summarized in **Table 1-3** above. **Standard Projects** are projects that are not PDPs (see **Table 1-1** above). Chapters 1, 4, and 8, and Appendices A-E, of the County BMPDM provide additional guidance on complying with these requirements. Note: Some projects which were previously classified as Standard Projects under the 2007 MS4 Permit may require reclassification as PDPs under the 2013 MS4 Permit if they have not obtained a prior lawful approval before **February 26, 2016** to proceed under an earlier MS4 Permit (See ***County of San Diego Guidelines on Establishing Prior Lawful Approval to Proceed under Earlier MS4 Permit Provisions***). In this case, they will additionally need to comply with the PDP requirements described below.

3. Updated Requirements for Priority Development Projects (PDPs)

In addition to the requirements listed above for all projects, PDPs must meet the structural treatment control and hydromodification management requirements of 2013 MS4 Permit Provisions E.3.b-c and E.3.e and WPO Section 67.811.b(4) and (5). These requirements are summarized in **Table 1-4** below, including applicable section references to the BMPDM. Applicants should be aware of the following significant changes in PDP requirements from the 2007 MS4 Permit:

- The 2013 MS4 Permit establishes a hierarchy for the selection of treatment control best management practices. Each PDP must implement BMPs that are designed to retain onsite the pollutants contained in the Design Capture Volume; if full retention is not technically feasible, then the PDP may utilize biofiltration BMPs; if biofiltration is not technically feasible, then the PDP may utilize flow-thru treatment control BMPs.
- PDPs must avoid and allow bypass of critical sediment yield areas, or implement measures that allow critical coarse sediment to be discharged to receiving waters, such that there is no net impact to the receiving water.
- Under specified conditions, applicants may partially or wholly satisfy their onsite pollutant treatment and hydromodification management requirements through the use of an offsite alternative compliance option.

4. Exceptions and Alternatives to Onsite Compliance with Structural BMP Requirements

Under specified conditions (see **Table 1-5** below), specific structural BMP requirements may be exempted, limited in scope, or satisfied through offsite alternative compliance options. The burden of proof for justifying the use of any available option lies with the project applicant. Applicants must submit a written proposal to County staff that includes a detailed explanation and rationale for any proposed alternative, including supporting calculations and information requested by the County, if applicable. Staff will review the proposal and make a determination as to whether or not the proposed alternative may be allowed, or whether additional analysis is required. Any decision by the County to allow a proposed alternative is conditional, and remains valid only so long as all applicable conditions continue to be satisfied by the applicant and/or successors in interest.

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Table 1-3: Summary of Requirements for all Development Projects (Standard Projects and PDPs⁵)

A. Construction BMP Requirements (BMPDM Section 1.3.1)
<input type="checkbox"/> Follow as applicable the approach and criteria described in the <i>State Water Resources Control Board General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities</i> .
B. Submittal of a Stormwater Quality Management Plan (SWQMP; BMPDM Chapter 8)
<input type="checkbox"/> Submit a Stormwater Quality Management Plan (SWQMP) identifying the measures that will be used for stormwater and non-stormwater management for the project.
C. General project requirements (BMPDM Section 4.1)
BMPs must be designed, constructed and maintained subject to the following criteria: <ul style="list-style-type: none"> <input type="checkbox"/> Onsite BMPs must be located so as to remove pollutants from runoff prior to its discharge to any receiving waters, and as close to the source as possible. <input type="checkbox"/> Structural BMPs must not be constructed within the Waters of the U.S. <input type="checkbox"/> Onsite BMPs must be designed and implemented with measures to avoid the creation of nuisances or pollutions associated with vectors (e.g. mosquitos, rodents, or flies).
D. Source Control BMP Requirements (see BMPDM Section 4.2)
Source control BMPs are activities or features that reduce the potential for storm water runoff to come into contact with pollutants. All development projects must implement the following source control BMPs where applicable and feasible: <ul style="list-style-type: none"> <input type="checkbox"/> Prevent illicit discharges into the MS4 <input type="checkbox"/> Identify the storm drain system using stenciling or signage <input type="checkbox"/> Protect outdoor material storage areas from rainfall, run-on, runoff, and wind dispersal <input type="checkbox"/> Protect materials stored in outdoor work areas from rainfall, runon, runoff, and wind dispersal <input type="checkbox"/> Protect trash storage areas from rainfall, run-on, runoff, and wind dispersal <input type="checkbox"/> Use any additional BMPs determined to be necessary by the County to minimize pollutant generation at each project site
D. Site Design Requirements (see BMPDM Section 4.3)
Site design BMPs (also referred to as LID BMPs) reduce the rate and volume of storm water runoff and pollutant loads by minimizing surface soil compaction, reducing impervious surfaces, or providing flow pathways that are “disconnected” from the storm drain system. The following site design BMPs must be applied to all development projects as applicable and feasible: <ul style="list-style-type: none"> <input type="checkbox"/> Maintain natural drainage pathways and hydrologic features <input type="checkbox"/> Conserve natural areas, soils and vegetation <input type="checkbox"/> Minimize impervious area <input type="checkbox"/> Minimize soil compaction <input type="checkbox"/> Disperse impervious areas <input type="checkbox"/> Collect runoff <input type="checkbox"/> Landscape with native or drought tolerant species <input type="checkbox"/> Harvest and use precipitation

⁵ Table 1-4 specifies additional requirements for PDPs.

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Table 1-4: Structural BMP Requirements for PDPs

A. Structural Pollutant Control Requirements (BMPDM Sections 2.2.1 and Chapter 5, and Appendices A-F and I-M)
<p>Each PDP must implement BMPs that are designed to retain⁶ onsite the pollutants contained in the Design Capture Volume⁷ (DCV).</p> <ul style="list-style-type: none">• If it is not technically feasible to implement retention BMPs for the full DCV onsite, the PDP must utilize biofiltration BMPs for the remaining volume not reliably retained.• If biofiltration BMPs are not technically feasible, the PDP must utilize flow-thru treatment control BMPs to treat runoff leaving the site, AND participate in offsite alternative compliance (see Table 1-5, item C below) to mitigate for the pollutants from the DCV not reliably retained onsite.
B. Hydromodification Management Requirements (BMPDM Sections 1.8, 2.3.1 and Chapter 6, and Appendices B, G, H, and J)
<p>Each PDP must implement onsite BMPs to manage hydromodification that may be caused by storm water runoff discharged from a project as follows:</p> <ul style="list-style-type: none">• Post-project runoff conditions (flow rates and durations) must not exceed pre-development runoff conditions by more than 10 percent (for the range of flows that result in increased potential for erosion, or degraded instream habitat downstream of PDPs).• Each PDP must avoid and allow bypass of critical sediment yield areas known to the County or identified by the optional Watershed Management Area Analysis (WMAA), or implement measures that allow critical coarse sediment to be discharged to receiving waters, such that there is no net impact to the receiving water. See BMPDM Section 6.2 and Appendix H for additional guidance on complying with requirements to manage critical coarse sediment.• A PDP may be allowed to utilize offsite alternative compliance in lieu of complying with the hydromodification management performance requirements. However, the PDP must mitigate for the post-project runoff conditions not fully managed onsite. See BMPDM Section 1.8 and Appendix J for additional guidance on the availability and use of offsite alternative compliance options.

⁶ To intercept, store, infiltrate, evaporate, and evapotranspire.

⁷ The volume of storm water runoff produced from a 24-hour, 85th percentile storm event.

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Table 1-5: Exceptions and Alternatives to Onsite Structural BMP Implementation

A. HMP Exemptions⁸ (BMPDM Section
<p>The Hydromodification Management BMP performance provisions of 2013 MS4 Permit Section E.3.c.(2)(d) may be waived for a PDP where the project discharges stormwater runoff to any of the following:</p> <ul style="list-style-type: none">i. Existing underground storm drains that discharge directly to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean; orii. Conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to water reservoirs, lakes, enclosed embayments, or the Pacific Ocean; oriii. An area identified as appropriate for an exemption by the optional WMAA incorporated into the Water Quality Improvement Plan (WQIP) for the Watershed Management Area that the project resides in⁹.
B. 50% Rule for Redevelopment Projects (BMPDM Section 1.7)
<p>Structural BMP performance requirements (pollutant control and hydromodification management) are applicable to redevelopment Priority Development Projects as follows:</p> <ul style="list-style-type: none">• Where redevelopment results in the creation or replacement of impervious surface in an amount of less than fifty percent of the surface area of the previously existing development, then the structural BMP performance requirements <u>apply only to the creation or replacement of impervious surface</u>, and not the entire development.• Where redevelopment results in the creation or replacement of impervious surface in an amount of more than fifty percent of the surface area of the previously existing development, then the structural BMP performance requirements <u>apply to the entire development</u>.
C. Offsite Alternative Compliance (BMPDM Appendix J)
<p>A PDP may be allowed to participate in an offsite alternative compliance program in lieu of fully complying with the performance standards for storm water pollutant control BMPs onsite. The following conditions apply:</p> <ul style="list-style-type: none"><input type="checkbox"/> The offsite Alternative Compliance Project (ACP) must mitigate the portion of volume and/or post-project runoff flow not fully mitigated by the PDP.<input type="checkbox"/> The PDP must implement onsite flow-thru BMPs for the portion of the DCV not effectively retained or biofiltered.<input type="checkbox"/> The applicant must comply with requirements and conditions of a RWQCB-accepted WQE Guidance document.<input type="checkbox"/> PDPs and ACPs MUST be in the same Watershed Management Area.<input type="checkbox"/> The ACP must result in a Greater Overall Water Quality Benefit than that which would have been achieved through onsite compliance alone.

⁸ Hydromodification management exemptions under the 2013 MS4 Permit are different than those allowed under the 2007 MS4 Permit. Exemptions previously allowed under the 2007 MS4 Permit will no longer be applicable for projects that have not received a PLA by the February 26, 2016 effective date of the 2013 MS4 Permit.

⁹ Only exemptions incorporated into WQIPs that have been accepted by the RWQCB may be considered. Since modifications to these exemptions can be expected over time, applicants should check the most updated available WQIP. These documents are available at www.projectcleanwater.org.